

December 9, 2008



TRANSCRIPT

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MONTGOMERY COUNTY COUNCIL

PRESENT

Councilmember Phil Andrews, President	
Councilmember Roger Berliner, Vice President	
Councilmember Marc Elrich	Councilmember Valerie Ervin
Councilmember Nancy Floreen	Councilmember Michael Knapp
Councilmember George Leventhal	Councilmember Don Praisner
Councilmember Duchy Trachtenberg	

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1 COUNCIL PRESIDENT ANDREWS:

2 Good morning, everybody. Welcome. We're going to begin the Council session with a
3 moment of silence. Please stand. Thank you. All right, the next item is general business
4 announcements, agenda and calendar changes.

5
6 LINDA LAUER:

7 All right. A couple of changes in the legislative session this afternoon, Bill 37-08, please
8 note that's an expedited bill so it will be introduced as expedited. At the 11:30 public
9 hearings Bill 35-08. That's the one on Funding for Public Safety Programs. That hearing
10 has been postponed until January 13th, 2009 at 1:30 p.m., and then, in the District
11 Council Session, we're adding an introduction of a Zoning Text Amendment 08-18, Land
12 Use, Christmas tree sales, and that will go for public hearing on February 3rd at 1:30.

13
14 COUNCIL PRESIDENT ANDREWS:

15 Very good. Thank you very much.

16
17 LINDA LAUER:

18 I do have petitions.

19
20 COUNCIL PRESIDENT ANDREWS:

21 Okay.

22
23 LINDA LAUER:

24 We received two petitions opposing Bill 25-08, Emergency Medical Services Transport
25 Fee; one petition supporting a peace resolution to end the Iraq War; and one supporting
26 Suburban Hospital's Campus Enhancement Project. Thank you.

27
28 COUNCIL PRESIDENT ANDREWS:

29 Thank you very much. All right, the consent calendar is next. Is there a motion for
30 approval of the consent calendar?

31
32 COUNCILMEMBER FLOREEN:

33 So moved.

34
35 COUNCIL PRESIDENT ANDREWS:

36 So moved by Councilmember Floreen, seconded by Councilmember Knapp. Are there
37 any comments on the consent calendar? Councilmember Praisner?

38
39 COUNCILMEMBER PRAISNER:

40 I would like to move that we take Item K off the consent calendar. It's been my observation
41 that it would, as we're going to the savings plan, that we have some departments coming

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1 in offering up savings even though they were currently running over budget. I think it
2 would behoove the Council to hold off transferring any funds until we have a better feeling
3 as to just where those departments stand vis-a-vis their current budget.

4
5 COUNCIL PRESIDENT ANDREWS:

6 Okay, all right. We will pull it off the consent calendar and look at that separately and find
7 out what the implication would be, if not taking action on that today, and then we'll discuss
8 that. Thank you, Councilmember Praisner. Councilmember Knapp?

9
10 COUNCILMEMBER KNAPP:

11 Thank you, Council President. I know we're going to address this later, but I don't know if
12 people watching now will be watching us again at noon, so, Items D, E, F, G, and H,
13 which were the Property Use Initiative Proposal by the County Executive, we're going to
14 have a conversation as it relates to the public discourse that we will have over the course
15 of the next month, month and a half, and so, I just want people to know who may be
16 watching us and interested in that that we are going to have a conversation about how we
17 reach out to the public, what that process will look like and we'll do that later in our session
18 this morning.

19
20 COUNCIL PRESIDENT ANDREWS:

21 That's right. We'll do that sometime around 11:30.

22
23 COUNCILMEMBER KNAPP:

24 Right.

25
26 COUNCIL PRESIDENT ANDREWS:

27 Perhaps, a little later.

28
29 COUNCILMEMBER KNAPP:

30 Also, resolution to extend the Bethesda Urban Partnership--the PHED cCommittee
31 reviewed the Bethesda Urban partnership, thought it was fabulous. There was no specific
32 request to try and extend the life of the resolution from five years to ten years. The
33 Committee was concerned not on the part of the efforts of the Bethesda Urban
34 Partnership, but more on the fact that it's important for the Council to come back and kind
35 of re-look at the various partnerships that we have like this on a regular basis, and so we
36 kept it at five years, but I just wanted to say that Bethesda Urban Partnership is doing a
37 great job and the Committee was very pleased with what they've done so far and wishes
38 them all the success going forward, to continue doing things for Bethesda that they do,
39 and then, finally, item double E, a resolution to amend the Budget Savings Plan,
40 Montgomery County Fire and Rescue Service, I just appreciate the efforts of the Public
41 Safety Committee and our Interim Chief, Richie Bowers, to come up with, I think, an



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1 amenable solution to address the savings that were needed while keeping some critical
2 services in place that relates to EMS Service. So, I thank the Committee and the Chief
3 and our MCFRS for addressing that. Thank you.

4
5 COUNCIL PRESIDENT ANDREWS:

6 Okay, Councilmember Floreen?

7
8 COUNCILMEMBER FLOREEN:

9 Thank you. I would just like to draw everyone's attention to Item number S. That is receipt
10 and release of the OLO's report on transportation demand, management, implementation,
11 funding and governance. It's a really impressive work that looks at all our different
12 transportation systems in the parking lot districts, and I think we will be spending some
13 considerable amount of time over the winter months taking a look at its suggestions and in
14 particular looking at parking policy in the County, which is one of the recommendations
15 that the report suggests that we advance along with some others. There's already a
16 response from the County Executive Staff on some of the issues here and I hope people
17 and their staffs have a chance to look at this thoroughly. We have a committee meeting
18 scheduled for the beginning of February, so that's a ways off, but as we look at the
19 challenges we have in transportation, some of the initiatives like Mr. Elrich's bus way
20 proposal and of course our fundamental financing issues, this really provides some great
21 resources for further thinking and analysis, and I've taken a look at it. Aron has done a
22 great job along with his colleagues and I'm sure the Council will want to spend some time
23 taking look at it over the break. Thanks.

24
25 COUNCIL PRESIDENT ANDREWS:

26 Thank you, Councilmember Floreen. I want to comment on a number of the items but very
27 briefly and that is that we have a number of appointments to different commissions and
28 boards. We have an exceptional number of talented people in Montgomery County who
29 volunteer their time to us on many Boards, most of which are volunteer Boards, and we
30 appreciate their service and their dedication. One of those Boards is the Grants Advisory
31 Group which Councilmember Leventhal, in his role as a chair of the Health and Human
32 Services Committee, was instrumental in helping to create as part of the way to improve
33 the grants process, and they will be serving for the third year now I believe in this role and
34 giving advice to the Council on the applications that come in. The Council is particularly
35 interested and congratulate first all the people being appointed and thank them, but I
36 wanted to say that the Council is particularly interested in receiving grants this year that
37 are focused on emergency assistance to those who are most needy because of the great
38 need in that area this year because of the economy. So, we were particularly interested in
39 hearing from grant organizations that serve the poor in a very hands-on way and leverage
40 their resources to generate the most impact. Councilmember Ervin, I think, no? Let me
41 just look here. Okay, very good. Any other comments on the consent calendar? I don't see

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1 any. So, with that, all those in favor of the consent calendar, please raise your hand. That
2 is unanimous. All nine, okay, and I've asked staff to comment on item 2K which we pulled
3 off the consent calendar at Councilmember Praisner's request to see there is an issue on
4 timing there or whether we need to discuss that today.

5
6 CHARLES SHERER:

7 Just a couple of points, one is that the end of your transfer is for FY08 which ended last
8 June 30th. The budget savings plan has do with FY09, so it's two different fiscal years.
9 The second comment is that delaying that until January will delay the approval of annual
10 financial report.

11
12 COUNCIL PRESIDENT ANDREWS:

13 Okay, all right, so there are implications for delaying it.

14
15 CHARLES SHERER:

16 Yes, sir.

17
18 COUNCIL PRESIDENT ANDREWS:

19 All right, all right, Councilmember Praisner, there are particular issues that you would like
20 to be pursued regarding this that we can pursue?

21
22 COUNCILMEMBER PRAISNER:

23 I think, when we look at the savings plan, we look at the Police Department. I believe they
24 cited they're something like \$3 million over budget, but yet they were going to offer up
25 something like \$2 million dollars in savings and I just don't think the two are compatible,
26 and we ought to wait and make sure the departments know just where they stand vis-a-vis
27 their budget.

28
29 COUNCIL PRESIDENT ANDREWS:

30 Well, one alternative is for there to be a concentrated effort to get to the bottom of that
31 issue over the next few weeks and we can have that effort go on while we are not in
32 session as the Council but we can look to address any questions that you would like to
33 add to what you just said and I will make sure that happens if that would satisfy you. All
34 right? Okay. All right, with that I think-- Go ahead, Councilmember Knapp.

35
36 COUNCILMEMBER KNAPP:

37 Thank you, Council President Andrews. I just had, well, a couple of questions. Mr. Sherer,
38 you said that there is an issue of not doing this now. What is the timing by which we
39 actually have to undertake our end-of-year transfers? What's the...

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1 CHARLES SHERER:

2 [INDISTINCT]

4 COUNCILMEMBER KNAPP:

5 And what governs that?

7 ALEXANDRE ESPINOSA:

8 Right. Typically, the transfers are done approximately this time of the year and they
9 coincide with a deadline, state-mandated deadline for the Department Of Finance to
10 publish the annual financial report by the end of the calendar year. So, action is needed.

12 COUNCILMEMBER KNAPP:

13 So, we actually have a state mandate that we actually have to have our books closed by...

15 ALEXANDRE ESPINOSA:

16 It's my understanding from the Department Of Finance, yeah. The auditors are reviewing,
17 in the final stages of reviewing, the financial statements and this is one of the last pieces
18 that comes into play, the final movement of appropriations to balance out the books.

20 COUNCILMEMBER KNAPP:

21 Okay. No, I'm just curious because, again, I was struck by the fact that when the State
22 came down and presented to us in September that the State had closed its books the
23 preceding month, in August, and the state that has a budget nearly five times the size of
24 the County's could closed their book so quickly and it takes us till the end of the fiscal
25 year, which I think does to Mr. Praisner's point, you know, make it a little more difficult for
26 us to kind of make decisions and look at how these things impact other issues then. So, I
27 would continue to urge us to come with a way to do this more quickly because I'm still-- I
28 mean, I think the answer I got when I asked the last time was, "Well, our budget is very
29 complex." Well, I get that that but it's still only a \$4 billion budget and states with budgets
30 that are much larger can do it much more quickly and I think it would give us better
31 information to make better decisions if we can figure out how to close our books more
32 quickly, so, I think we need to continue to pursue that. The second is, the police overtime
33 piece, as I recall, we've actually been making great progress there, and so I'm kind of
34 curious as it relates to this; is this the function of actually overtime of things that we had
35 not anticipated or is this just something that we hadn't actually figured out in the budget
36 and we're just waiting until the end to move the tallies around at the end to make
37 everything add up?

39 ALEXANDRE ESPINOSA:

40 Right. Well, when we were looking at our quarterly expenditures and projections, we had
41 indicated potentially an issue with the Department of Police, in terms of, first of all,



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1 meeting the savings plan, and then secondly requiring an end-of-year transfer as it turns
2 out that the Department of Police needs, and at that time there was a dramatic increase in
3 fuel prices and that's really the driving factor, a couple of others as well.

4
5 COUNCILMEMBER KNAPP:

6 We had a dramatic increase in fuel prices across the board. Yes, obviously there is a fleet
7 for police but there's a fleet for a lot of things that we have and so, I don't recall in any of
8 our quarterly updates that it showed that the police number was going to be that big.

9
10 ALEXANDRE ESPINOSA:

11 Well, we didn't have a specific number at that time, but we did try to indicate that there
12 were things that we were watching in the Department of Police. Again...

13
14 COUNCILMEMBER KNAPP:

15 Why didn't we have-- I mean, I guess, this is the thing I'm kind of curious about. We've
16 been watching Police pretty closely, the Chair of the Public Safety Committee, the current
17 Council President, has been looking to this very closely and we've seen increased fuel
18 costs for everybody else, and for some reason at the end of the day Police has a \$3.2
19 million issue. We didn't see quarterly reports. It just kind of showed up.

20
21 ALEXANDRE ESPINOSA:

22 Police is the major consumer of unleaded fuel in the County by far, so the spike in
23 unleaded fuel hit them much more so than other Departments that are using a fleet. They
24 also from - my understanding is that they had a successful effort to maintain staffing
25 during the year. So, in terms of meeting or in terms of their actual personnel cost related
26 to some of the budgetary assumptions with regard to [INDISTINCT], that had an impact as
27 well.

28
29 COUNCILMEMBER KNAPP:

30 Well, I'll be honest. I am a tad dubious, just because we've been looking at the actual
31 fiscal elements associated with Police. I know that Police has been focusing on overtime. I
32 know that people have been looking at this very closely, and during the course of the next
33 fiscal year I'd like to make sure we can take them out of the quarterly reports and if we see
34 something out of whack, I'd like to have a conversation next summer to really explore that
35 a little bit because I'm not sure this was a police issue. I think that there were numbers
36 there before and I think we just didn't see those numbers, and we knew, though, at the
37 end of the day, we'd actually have money that we can move from one pot to the other, and
38 we did, and all of a sudden the police number went up to what the number had been
39 throughout the year and it looks like police did something inappropriate when they didn't at
40 all. We just wanted to make sure that we didn't show the number till we knew what

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1 everybody else's savings were going to be so we could cover the number and I really
2 don't want to do that twice.

3
4 COUNCIL PRESIDENT ANDREWS:

5 What we can do--I see Councilmember Elrich has his light on, too, and Councilmember
6 Floreen--I believe we have a joint Public Safety MFP meeting schedule in January on
7 public safety communications, and we can add this to the agenda. It really crosses the
8 border and we'll get a fuller explanation of why this showed up the way it did. I hear the
9 explanations and they sound very reasonable in terms of the increased fuel cost for Police
10 because they are on the road all the time, but I think it would be worth having on the
11 agenda to itemize it for everybody. Councilmember Elrich and then Councilmember
12 Floreen.

13
14 COUNCILMEMBER ELRICH:

15 I guess the only items I'd want explanation are the matter of the increase and fringe
16 benefit costs and the excess compensatory leave payouts because if that's all negotiated,
17 I would have assumed that those costs were already known and so how an excess in
18 fringe benefits comes up, I guess I'd like more information on that. I guess my broader
19 question is, does this have any implications for the budget that you all are putting
20 together, where we keep floating the weekly number, the number du jour of how big a hole
21 we've dug? Do these transfers make the hole bigger or have you simply accounted for
22 these in the assumptions you've brought forward up to now? This is just formalizing what
23 we all ready know.

24
25 ALEXANDRE ESPINOSA:

26 Well, this is just-- As far as the transfers themselves, it's just an accounting thing to bring
27 the appropriations in line with the actual spending for FY08. The actual spending for '08 of
28 course has impact in terms of what the beginning fund balances are at FY09, and we
29 incorporated those into our assumptions that we presented to the Council.

30
31 COUNCILMEMBER ELRICH:

32 So, this doesn't change anything from the last time you give us bad news.

33
34 ALEXANDRE ESPINOSA:

35 No.

36
37 COUNCILMEMBER ELRICH:

38 Okay. I just want to make sure when I'm getting bad news, I know what it is.

39
40 COUNCIL PRESIDENT ANDREWS:

41 It's new bad news, okay. All right. Very good. Councilmember Floreen.

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1

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1 CHARLES SHERER:

2 The fund balance is determined by actual revenues, actual expenses and this is just
3 transferring unused appropriation authority, so it has absolutely no impact.

4
5 COUNCILMEMBER FLOREEN:

6 On the actual dollars?

7
8 CHARLES SHERER:

9 On the fund balance. It has no impact on the fund balance because you're not transferring
10 fund balance. It's the transfer of appropriation authority which wasn't used. So, it doesn't
11 make the fund weaker. It doesn't take any of the fund balance away.

12
13 COUNCILMEMBER FLOREEN:

14 Well, I'm going to sit down and review the bidding on this with you.

15
16 CHARLES SHERER:

17 I try to explain that in the memo because this is a confusing point and occasionally it
18 comes up. "oh, we're taking fund balance away from the fund by doing this transfer," and
19 the answer is no. We're not. We're just taking appropriation authority which is not the
20 same fund.

21
22 COUNCILMEMBER FLOREEN:

23 We're just taking the authority.

24
25 CHARLES SHERER:

26 To spend because they didn't spend it. See, they didn't spend it. The year is over, and
27 they didn't spend that appropriation.

28
29 COUNCILMEMBER FLOREEN:

30 Right.

31
32 ALEXANDRE ESPINOSA:

33 It's a bookkeeping measure.

34
35 CHARLES SHERER:

36 It's a bookkeeping.

37
38 COUNCILMEMBER FLOREEN:

39 It's a bookkeeping measure but nonetheless it's a statement of dollars that if we haven't
40 spent money particularly in a committed fund, it raises the question of whether the rate is
41 correct, particularly in solid waste, and something to look at as we analyze this in the



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1 future, and likewise, you are saying basically this highlights areas where we should revisit
2 some of the assumptions of those funds perhaps for whatever reason.

3
4 CHARLES SHERER:

5 Sure, they had just slightly more appropriation authority than they actually needed.

6 COUNCILMEMBER FLOREEN:

7 Yeah. Okay, well, we'll continue talking about this in the winter, thanks.

8
9 COUNCIL PRESIDENT ANDREWS:

10 Okay. I don't see any of the lights. Councilmember Ervin? We're still on the--yeah. We're
11 going to vote now separately because it was pulled from the consent calendar on agenda
12 item 2K, which is the end-of-year transfers. We will do appropriate follow up to answer the
13 questions that have been raised, but it does appear that we need to take action today in
14 order to comply with the State's end-of-year requirements for the financial report. So, all
15 those in favor of this item, please raise your hand. And that is unanimous.. Very good.
16 Okay. Next is item 3, which is action on Executive Regulation 31-08, Context Sensitive
17 Road Design Standards, and I think this is the thickest of the packets today, but maybe
18 not the longest in terms of discussion, hopefully not. All right, and I'll turn to the Chair of
19 the Transportation, Environment and Infrastructure Committee, Nancy Floreen.

20
21 COUNCILMEMBER FLOREEN:

22 All right, thank you very much, Mr. President. I'm sure that my colleagues have carefully
23 scrutinized each page of this 184-page packet. I really -- For me this is a great moment.
24 It's the end of a two-year project to bring this effort to a close, and I really want to thank
25 members of the Committee and the stakeholder work group that was formed of advocates
26 for pedestrians, bicyclists, the disability community, transit, motor vehicles, the
27 environment and County agencies. We had everyone who had interest in this at the table
28 working through the details. I know that an extraordinary amount of time went into this. I
29 understand they've met 14 times over the course of 8 months, to hammer out the details.
30 They worked through a lot of complexity and really made sure that different perspectives
31 were represented and they really deserve tremendous credit and I thank them very much.
32 This has been a pet project of mine since 2006 with these revised standards. You will
33 recall last year about this time, we revised the road code, the code itself, but said, "Oh,
34 sort out the details in a rapid, convenient process." Of course that took longer than anyone
35 would have liked but the result is a terrific one with revised standards, new residential
36 streets as well as roads in redeveloped communities will be friendlier, safer places for
37 pedestrians and better for the environment. This basically requires that the road
38 construction meets the needs of all users, not just motorists and that the flexibility here
39 that's been worked into this will create what we call in the trade "context sensitive" streets
40 that respect the needs of the different users, and in particular we've added a lot of
41 language here prioritizing stormwater management elements as part of new road



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1 construction, and we've had a lot of support from the stormwater advocates. It's been a
2 long road, so to speak, but I am really very pleased to recommend approval of these
3 executive regulations on behalf of the T&E Committee. Some of us asked the price to go
4 back to the table, and I hammered out some of the disagreements--there were some
5 several months ago--and they did and they came back to us and I think everyone's pretty
6 happy with the possible exception of Mr. Orlin, but this is a world of compromise. It's been
7 two years and I don't think we can do it anymore, Glenn. So, with that I commend to you
8 for your approval the Executive Regulation you have before you.

9
10 COUNCIL PRESIDENT ANDREWS:

11 Thank you very much. I see some lights. I'll turn first to the other Committee members.
12 Councilmember Leventhal.

13
14 COUNCILMEMBER LEVENTHAL:

15 I voted for these regs in committee and I will vote for them today. I asked in Committee
16 that the record reflect, and unfortunately the packet doesn't reflect, that I am really
17 ambivalent about this initiative. I hope we're doing the right thing. I appreciate very much. I
18 really congratulate our Department of Transportation and our Planning Board. They were
19 in disagreement for a while and then they came together and that's really important on
20 highly technical issues like these. We do need our technical staff to hammer out a
21 compromise and that's what they did in this case, and for that reason I'm voting for it. I've
22 been assured by both the Planning Board and the Department of Transportation that what
23 we're doing here will not improperly impede traffic flow and I hope that that's true. There's
24 a lot of assumptions being made about narrowing the widths of streets, designing streets,
25 curvature of streets and how that will affect driver behavior, and I hope our assumptions
26 are right and I'm going ahead and voting for it with ambivalence because I am concerned
27 that we do have distracted drivers, we do have impaired drivers, we do have road rage
28 and I hope that as we design these narrower, more curved, more tree-lined streets, we do
29 keep in mind the wide range of drivers who are going to be using the roads even as we
30 make every effort, which I completely support, to reduce speed and increase safety for
31 bicyclists and pedestrians. It's not an easy challenge. It isn't my specialty area. I'm not a
32 traffic engineer. You guys are and so the traffic engineers have now put their best thinking
33 into this and I'm prepared to vote for it but I don't actually recollect getting elected to slow
34 traffic down and make it more difficult to drive in Montgomery County. I am somewhat
35 concerned that this road code may have that effect and so I vote for it, expressing the
36 hope, particularly to County DOT who's been beat up a lot in this process but who does
37 have the fundamental responsibility of carrying this out, that the objectives of this are
38 correct. We want safety for pedestrians. We want safety for bicyclists, but we don't want to
39 create new hazards in this goal of slowing down traffic. We don't want to create new
40 opportunities for accidents that didn't exist before, and I have every confidence that our
41 engineering staff at DOT along with the advice from the Planning Board will keep that in



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1 mind. So, I know that this has been the priority for the Chair, Ms. Floreen. I have a great
2 respect for her. She has devoted a lot of time and effort to this issue. I know that Glenn
3 Orlin also has put a great deal of work and effort into it. I hope we are doing the right thing
4 here.

5
6 COUNCIL PRESIDENT ANDREWS:
7 Councilmember Ervin.

8
9 COUNCILMEMBER ERVIN:

10 Thank you very much. I'd like to congratulate the Committee. I started out two years ago
11 on the Transportation and Environment Committee, was very interested in this bill, and I
12 congratulate you for all your hard work over the past two years to get us these regs. I do
13 have a couple of points that I'd like to relay to the Committee about, on page 3 of the
14 packet, the application of standards as they apply to projects in phase two, and I want to
15 bring up a community that I represent that's in phase two of redesign, Seminary Road.
16 This community has worked very hard to hopefully have these standards apply to them
17 because of their desire for improved multimodal access to cars and pedestrians, and so I
18 would hope that the engineering staff at DOT makes every effort to work with those
19 communities who are in phase two of design. Seven Locks, Goshen, Seminary Road
20 intersection, the Burtonsville access road--we went and we looked at those and I think it's
21 really important that we're right now in the process and maybe we can make some of
22 these new design standards fit into those and to those. Yes.

23
24 BRUCE JOHNSTON:

25 Thank you, that's a very good point. I did go back through and look at the five projects that
26 are in phase two and compare them with the dimensional guidelines in the road code and
27 in most cases, in many cases because of physical constraints along Seminary Road, the
28 actual lane widths are narrower than might otherwise be prescribed in that area and so I
29 do think the standards do apply. What we don't want to do is start all over again with the
30 process that's prescribed here. So, yes, I think that those standards would apply in that
31 situation.

32
33 COUNCILMEMBER ERVIN:

34 Okay. Very good. Thank you all so much. I think that we will save, I believe, a lot of lives
35 as more and more people choose to walk and ride bicycles, and I don't know where Glenn
36 was in the conversation because I've not been on the Committee but I appreciate your
37 hard work on behalf of all of us on the County Council. Thank you.

38
39 COUNCIL PRESIDENT ANDREWS:

40 Thank you very much for those remarks. Councilmember Knapp.

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1 COUNCILMEMBER KNAPP:

2 Thank you, Mr. President. I appreciate the remarks of the Chair and the remarks of
3 Councilmember Leventhal, and I was wondering-- We do a lot of things up here that
4 people don't fully understand or appreciate, and we've got a packet in front of us that's a
5 hundred some-odd pages long, 182 pages, which is only a piece of really what's out there,
6 and I think that this does have implications for lots of neighborhoods, lots of communities,
7 and I was wondering if somebody could give us like a three minute overview of why this is
8 important and what this does because I think it is significant. I think people should care but
9 I'm not sure, given the conversation we had so far, that people would really understand
10 what we are getting ready to do. So, does one of you have the ability to just kind of give
11 us the elevator speech of why we need context sensitive road design standards?
12

13 DAN HARDY:

14 This is like "To Tell the Truth." We will all stand.
15

16 BRUCE JOHNSTON:

17 All right, I'll take a shot at it and if anybody else wants to chime in, that would be great.
18 Context sensitive road design basically establishes a process that recognizes that
19 roadways, one size does not fit all. It recognizes that when a roadway is built, it goes
20 through an environment, both a built environment and a natural environment, and it
21 understands that there are many, many users of the roadway, people interested in various
22 outcomes of the roadway, and it recognizes the importance of pedestrians and safety, and
23 it requires through that process it's established that the road designers involve the
24 community, involve the stakeholders, work together in a process to establish the design
25 that best fits the context through which that roadway is going to go, whether it would be
26 through an agricultural area where you might expect higher speeds and fewer pedestrians
27 or whether it's going to go through an area like a downtown Bethesda where you have a
28 lot of pedestrians, a lot of bicyclists, a lot of traffic and you would anticipate slower
29 speeds, and so it recognizes the wide variety of contexts in which these roadways are
30 going to go and it applies guidelines so that when that roadway is designed and built, it fits
31 within the context most sensitively.
32

33 COUNCILMEMBER KNAPP:

34 And this is different than what we did before because before we basically had a, "Here's
35 what we do in this type of road, and this type of road looks like this in this type of an area."
36 I mean, how is this different from what we previously did?
37

38 GLENN ORLIN:

39 -- had far fewer standards from which to choose among, for one thing. This provides a
40 whole lot more standards...
41

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1 COUNCIL MEMBER KNAPP:

2 Much, much greater flexibility to look at but the context in which we're placing this new
3 road?

4
5 DAN HARDY:

6 And I think also what you did a year ago was to talk about the function of the roads. Now,
7 we're saying that within a given function for a community road or arterial road there's
8 different things, different ways you could design the road to serve the same function
9 reflecting the context through which it passes, and I just add that I think that what has
10 happened over the past decade or so is the continuing shift away from moving cars to
11 moving people at all modes and thinking about the safety for all modes, efficiency, not just
12 speed but making sure everybody is moving as well as it can and then the environment.
13 So, stormwater management and pedestrian and bicycle aspect of this are reflecting us
14 keeping up with the trend of how roads are being designed across the country and across
15 the world.

16
17 COUNCILMEMBER KNAPP:

18 Well, thank you and I appreciate the remarks of Councilmember Leventhal because I think
19 that we haven't done this before and I think it does have potential implications but I think
20 it's going to be important for us to learn, but I think as we look at Germantown,
21 Gaithersburg, White Flint master plans where we're talking about increases in density in
22 places that make sense, that just because you increase density you have not necessarily
23 made a pedestrian-friendly community, and so my hope is that this coincides with those
24 other efforts so at the end of the day, where we've placed density where it makes sense to
25 place it, we've also created an environment that is much more friendly, as you said, for
26 people trying to get to from whatever mode they choose to get there, and so hopefully this
27 will do that but I think we're gonna have to watch it and I appreciate the efforts of the Chair
28 because I know this has been something that she has been keenly interested for a long
29 time. So, thank you all very much.

30
31 COUNCILMEMBER FLOREEN:

32 In response to your question about elevator speech, I think if you look around you, the
33 way a roadway is designed really affects the character of a community. It affects the way
34 people behave. It affects the way they drive. It affects the way they walk, and introducing
35 these standards into our future planning and our revisiting of existing design, I think, will
36 have a very beneficial impact on community character, and I think that's the driving force
37 because we know that, that character is different in different places and that's the point
38 here, to be clear that in a residential community, the priority is the residents and so you
39 build a road there respects that. In another location, the priority is the car, and you build
40 the road in a way there that respects that need for mobility and speed, and I think adding

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1 these different steps of analysis really will go a long way towards keeping Montgomery
2 County the way we want it to be and to look into the future.

3
4 COUNCIL PRESIDENT ANDREWS:

5 Excellent explanation. Councilmember Trachtenberg then Councilmember Elrich.

6
7 COUNCILMEMBER TRACHTENBERG:

8 Thank you, President Andrews. I wanted to just make some general brief remarks about
9 the road code bill and I can recall that when I first got here to the Council, this was actually
10 the first piece of legislation that I co-sponsored and I very much did that because I felt
11 there was a real need to work with the communities around road design, and I understood
12 the significance of that, and I first off want to acknowledge that what we're looking at today
13 is very much a fruit, a product of a very fine and collaborative effort, and the regulation
14 itself might not be absolutely perfect, but it's a step, a drive and a run in the right direction
15 and it moves us forward and it underscores the fact that roads--and I don't think
16 necessarily we often think this way--but roads very much are a vital resource in the
17 communities here in the County. So, I want to thank Councilmember Floreen for her effort
18 on this issue, and I want to thank Dr. Orlin as well. I know you've invested a lot of time in
19 trying to put this together, but I'm very happy with what I see here today and I want to
20 again acknowledge my colleague.

21
22 COUNCIL PRESIDENT ANDREWS:

23 Thank you, Councilmember Trachtenberg. Councilmember Elrich?

24
25 COUNCILMEMBER ELRICH:

26 It's been lot of work to get to this point with this project, and I appreciate that. I don't think
27 we should oversell this in terms of pedestrian lives are going to be saved because the
28 enormous amount of what's happening in pedestrian deaths are really results of
29 pedestrian behavior and you could redesign some of these roads and narrow the lanes
30 and do a lot of things and it's not going to change what happens when people cross mid
31 block, cross mid block in dark clothing in the middle of the night and make terrible
32 calculations about whether they could get across before the car impacts them, and I think
33 that those things are beyond the road code. They go to, you know, a greater effort at
34 public education, awareness about what it means to live in an urban environment with lots
35 of cars and what appropriate pedestrian behavior is. I think we need to do more work on
36 that and Congress talked about, you know, doing more work to try to decrease pedestrian
37 fatalities which they likewise feel have a lot to do with pedestrian behavior and to some
38 extent, driver behavior, the failure to look when you are making the right turn on red and
39 the failure to respect passengers-- I mean, pedestrians in crosswalks, which is an
40 enormous issue not only in Montgomery County, but elsewhere. So, I think there has been
41 a lot of things that are going to have to work together in order to achieve real

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1 improvements in pedestrian safety. A question I have--people have asked me and I've
2 puzzled over this is, how do you explain this in the real world? I think like if I was starting
3 at the corner of Wisconsin and Old Georgetown and I was going toward Rockville, how do
4 -- how would speeds change along the pike using the standards? Like would I be doing 25
5 from Old Georgetown to Woodmont where it comes into the pike? Would I go to 35 from
6 there to the Beltway, or would I go to 45? And how do the speeds change in reaction to
7 the changing environment along the same road?

8
9 DAN HARDY:

10 I think I'll answer from a long-range perspective, and then Bruce can try maybe how you
11 get there. What we do envision is that we're going to be looking at the concept of target
12 speeds in which of the master plans we bring to you. So, right now in downtown
13 Bethesda, Wisconsin Avenue is posted at 25 miles an hour and basically the State has
14 designed a road with our help as we approved developments along it to make that the
15 context so that that's the appropriate speed to be driving. Once you get out of Bethesda,
16 clearly, you're-- At NIH, you're not going to have an environment in our current plans.
17 Things are far back from the road. It's not going to be a place you drive 25. In White Flint,
18 it's a place where right now, it's posted for 40 on Maryland 355 through White Flint. We
19 are talking about creating a place in White Flint that will be like Bethesda, and so from a
20 design perspective and an urbanity perspective, we will be giving you a plan, we hope,
21 that says, we think that the target speed should ultimately be 25 miles an hour. Now, part
22 of the critique in White Flint is going to be, "You don't go 25 miles an hour today during
23 peak periods. You're slower than that." So, there's a difference between the congestion
24 concern--we got to keep people moving effectively--and the speed, what's appropriate to
25 drive when there is not a lot of traffic on the road. So, it will take a long time, though. One
26 of the things we discussed a lot is that that doesn't mean that you adopt a plan and we
27 ask the State or the County to go out and put a 25 mile an hour speed limit because it's
28 going to take years for both the public and private sides to build White Flint so that it
29 becomes a place where you'll, ultimately, like Bethesda, feel it's appropriate to drive 25.

30
31 COUNCILMEMBER ELRICH:

32 I was going to say, I don't think anybody would feel it's appropriate to drive 25 on that
33 segment of 355 right now.
34

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1 BRUCE JOHNSTON:

2 And I think it's appropriate, as Dan kind of implied and as the road code recognizes in
3 here, that there are an awful lot of cues which impact driver behavior, driver speed.
4 Prevailing speed is what the drivers actually drive in the conditions that they're moving in
5 and it's not just the roadway but it's the environment through the roadway, the land use on
6 either side. If you're driving on a four-lane road, for example, in an area where you have
7 big block shopping centers on both sides set way back from the roadway, you're going to
8 feel a lot more comfortable driving faster than you would if you're driving through
9 Bethesda because in Bethesda, the buildings are right up close. Everything is tight against
10 the roadway, and, as Dan was saying, when we build a roadway in a new area, for
11 example, when that roadway is opened, the expectation is not that people are going to be
12 driving at the target speed when that roadway is open without the adjoining land uses that
13 will tend to drive the speeds down.

14
15 COUNCILMEMBER ELRICH:

16 Okay. I just hope as you implement this you think about the effect of speeding up and
17 slowing down and compressing the traffic because, particularly when you look at 355, you
18 can't isolate White Flint and Twinbrook and some of these other nodes from the use of
19 that road. I mean this is not like it's a city and this is internal traffic to the city. That is a
20 thoroughfare and will remain a thoroughfare for people actually not expecting to go, for
21 example, to White Flint but expecting to go to Bethesda or Friendship Heights and
22 beyond, and I worry a little bit about what you might call an accordion effect of things, you
23 know, hitting 25 and then creating a wall and then opening up a little bit and then hitting a
24 wall again, whether that's going to be productive, but good luck.

25
26 GLENN ORLIN:

27 If I can add this, and you are getting into this when you are doing your master plans for
28 the nodes of development along 355, 355 in the Fifties and before was exactly that. It was
29 the major thoroughfare to go all the way north and south. It hasn't been since the Sixties,
30 when I-270 was completed. That's the way through traffic goes. There is not that much
31 long-distance traffic on 355 now, and it would be less than that over time. It's really going
32 to be more node to node rather than, you know-- I don't know if anybody is driving from
33 Clarksburg to Bethesda on 355, for example.

34
35 COUNCILMEMBER ELRICH:

36 That's farther than I was stretching it. Yeah. Rockville to Bethesda.

37
38 GLENN ORLIN:

39 Stretching it to make a point, that's right.

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1 COUNCIL PRESIDENT ANDREWS:

2 Okay, thank you, Councilmember. I want to thank Chair Floreen for her hard work on this
3 over a long period of time, the Committee as well and all those folks at the table and
4 behind them who worked on this also. It is a complex undertaking and a lot of work went
5 into to try to get the balance right for the different contexts, the different road purposes as
6 described by Councilmember Floreen. So with that, we're ready to vote on this executive
7 regulation. All those in favor of the regulation, please raise your hand. And that is
8 unanimous among those present, and so, that is 8-0. Okay. Next, we're moving on to the
9 District Council session. Item 4 is action on Amendment to the Master Plan for Historic
10 Preservation:

11 Damascus-Goshen Resources. The Council had a worksession on this last week. I
12 believe it was last week.

13
14 COUNCILMEMBER KNAPP:

15 I can't remember, recently.

16
17 COUNCIL PRESIDENT ANDREWS:

18 Very recently. I think it was last week, and it is before the Council for approval today. Are
19 there any motions? Any discussion on this? Councilmember Knapp?

20
21 COUNCILMEMBER KNAPP:

22 Now, I appreciate the President's bringing this forward. When the Council moved on this in
23 the worksession last week, there were a number of properties that had changed from what
24 has been recommended by the Committee, and as we have found over the course of our
25 consideration of these historic preservation assets, or recommended assets, over the
26 course of the last six months, there is a lot of confusion that exists as to what happens
27 when an individual's property is placed on the atlas, actually designated historic, any
28 number of things, and so, I have heard from a number of property owners who the full
29 Council recommended making different modifications to their properties for what had
30 recommended, and I would suggest that we in an effort to make sure that those property
31 owners are fully communicated with, that we put this off and bring this back in January so
32 we can make sure that they are fully informed as to what we're doing to their properties,
33 and in order to do that, the actual deadline for consideration of the existing master plan
34 expires on December 19, and so as we do with much legislation this time of year, I would
35 put forth the resolution to extend for 60 days beyond the December 19th deadline for
36 further consideration of the amendment to the master plan for historic preservation for
37 Damascus-Goshen Resources. I do not believe that we would take 60 days, but
38 considering that 30 of those days the Council won't be in session anyway, and bring back
39 in the latter part of January.

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1 COUNCILMEMBER LEVENTHAL:

2 If that requires a second, I'll second it.

4 COUNCIL PRESIDENT ANDREWS:

5 Okay, so, it's moved by Councilmember Knapp, seconded by Councilmember Leventhal.
6 Any discussion on the motion? Councilmember Leventhal?

8 COUNCILMEMBER LEVENTHAL:

9 Well, I want to thank the chairman of the PHED Committee. You know, I really am a
10 student of Montgomery County history, and I very much appreciate the efforts of the
11 historic preservation commission to protect and preserve properties that are part of the
12 legacy that we are carrying out here as elected officials in this community. At the same
13 time, I think it's regrettable when property owners fear the Historic Preservation
14 Commission as if it were an audit by the IRS. We need to find some mechanism where
15 we're addressing these issues, just like with all issues, in a collaborative and a win-win
16 way. This is one of the biggest challenges we face and we don't always succeed, is
17 almost anything we do is going to encounter community opposition, and sometimes, we
18 know we're right and we proceed as a matter of principle and people's noses get out of
19 joint and frankly I'm guilty of that as anybody. Sometimes, I know I'm right and I proceed
20 without doing the spade work that I know I should do and that we should all do to listen a
21 little more, try to bring people together, try and accomplish some sort of common
22 understanding of how best to achieve our objectives. That's what we are able to do in the
23 road code that we just talked about and I think with some of these HPC designations we
24 would benefit from a little more effort in that regard. So, there is a time to try and reach
25 accommodation. There is a time to bulldoze through despite community opposition. I don't
26 think that right now is the time for the latter. I think it's time for the former, and I appreciate
27 Chairman Knapp's efforts in that regard. I think this whole HPC designation issue, I think
28 there is misunderstandings among community members. I think there's some
29 misunderstandings among the advocates of preservation and I just think we can do a
30 better job, step back to a little bit, and have a conversation about this, and so, I am
31 delighted to second and support Chairman Knapp's motion.

33 COUNCILMEMBER FLOREEN:

34 That's fine.

36 COUNCIL PRESIDENT ANDREWS:

37 All right, I actually don't see anyone jumping up and down to object to it. So, I don't see
38 any more discussions on that so we'll vote on the motion. All those in favor of Chairman
39 Knapp's motion, raise your hand. That is unanimous. Okay.

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1 COUNCILMEMBER KNAPP:

2 Thank you very much.

4 COUNCIL PRESIDENT ANDREWS:

5 You're welcome. All right, Action B, or Item B, which is Item Five, is action on the
6 Amendment to the Master Plan for Historic Preservation:
7 Individual Historic Resources, and we have this before us today based on the
8 worksession we had. Is there a motion for approval?

10 COUNCIL VICE PRESIDENT BERLINER:

11 So moved.

13 COUNCILMEMBER ELRICH:

14 Second.

16 COUNCIL PRESIDENT ANDREWS:

17 Okay, that was motioned by Council Vice President Roger Berliner, seconded by
18 Councilmember Marc Elrich. Any discussion? I don't see any discussion. All right, we will
19 then have a vote. This is a simple majority vote. Show of hands, all those in favor of this--

21 COUNCILMEMBER KNAPP:

22 No, this is a roll call.

24 COUNCIL PRESIDENT ANDREWS:

25 This is a roll call? Oh, okay. All right. I see it. Thank you. All right. Will Clerk please call the
26 roll?

28 CLERK

29 Mr. Elrich?

31 COUNCILMEMBER ELRICH:

32 Yes.

34 CLERK:

35 Mr. Praisner?

37 COUNCILMEMBER PRAISNER:

38 Yes.

40 CLERK:

41 Ms. Trachtenberg?

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1 COUNCILMEMBER TRACHTENBERG:
2 Yes.
3
4 CLERK:
5 Ms. Floreen?
6
7 COUNCILMEMBER FLOREEN:
8 Yes.
9
10 CLERK:
11 Mr. Leventhal?
12
13 COUNCILMEMBER LEVENTHAL:
14 Yes.
15
16 CLERK:
17 Ms. Ervin?
18
19 COUNCILMEMBER ERVIN:
20 Yes.
21
22 CLERK:
23 Mr. Knapp?
24
25 COUNCILMEMBER KNAPP:
26 Yes.
27
28 CLERK:
29 Mr. Berliner?
30
31 COUNCIL VICE PRESIDENT BERLINER:
32 Yes.
33
34 CLERK:
35 And Mr. Andrews?
36
37 COUNCIL PRESIDENT ANDREWS:
38 Yes. That is unanimous, 9-0.
39
40 COUNCILMEMBER KNAPP:
41 Mr. President?

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1 COUNCIL PRESIDENT ANDREWS:

2 Yes.

3
4 COUNCILMEMBER KNAPP:

5 If I might, I just wanted to thank the efforts of the Historic Preservation Commission and
6 our Historic Preservation Staff, Park and Planning, and Mr. Zyontz. We've had a lot of
7 discussions on a lot of these properties, and some we'll continue to discuss a little bit
8 more, but I just wanted to thank them for their efforts. I think this has been a very
9 worthwhile discussion as we look at Historic Preservation law. Obviously, there are a lots
10 of opinions and perspectives. There are a number of folks in the audience who are very
11 pleased that they have properties are going to be designated historic. There are others
12 who are somewhat less so, but, nevertheless, I think our staff has done a very good job
13 over the last number of years bringing these forward, and so, I know we didn't make it
14 easy for them during the course of the committee's discussions in consideration of these,
15 but I think they have done fairly due diligence and have worked especially our request to
16 go back and really communicate with as many property owners as possible, and then we
17 as a full Council kind of changed some things a week or so ago. So, I think it's important
18 to make sure those other property owners are aware of what the implications will be for
19 the property, but I do thank them for their efforts and we have used up much of their time.
20 So, thank all three of you in front of us very much.

21
22 COUNCIL PRESIDENT ANDREWS:

23 Yes, on behalf of the entire Council as well. Mr. Knapp speaks for everybody on that.
24 Thank you for the good hard work, a lot of attention and there's a lot of passionate dispute
25 on this issue from time to time and we know that goes with the territory. We know we don't
26 always make people happy on this, but we are trying to do what's right for the long term
27 for the county, while balancing legitimate concerns of property owners, and we thank you
28 for your role in that. All right. The next item is action on the Twinbrook Sector Plan and we
29 had a Council worksession on this, too. Chair of the PHED Committee, Councilmember
30 Knapp.

31
32 COUNCILMEMBER KNAPP:

33 Thank you, Mr. President. I would just observe that it felt like the PHED Committee was
34 pretty busy. Now, I looked at today's agenda, I recognize why, because we have all of the
35 things here we have been meeting over for the last six to eight months. One thing I would
36 note is that in the packet for today, there was a mix-up of sorts because the actual
37 resolution that is included is the resolution for the previous item.

38
39 COUNCIL PRESIDENT ANDREWS:

40 Okay.

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1 COUNCILMEMBER KNAPP:

2 So, I don't know.

4 MARLENA MICHAELSON:

5 Yeah, I'm sorry. I didn't even catch that. Actually, you have both. I think what happened is
6 they were inadvertently attached.

8 COUNCILMEMBER KNAPP:

9 So, just want to clarify that for folks.

11 MARLENA MICHAELSON:

12 We wanted to make sure you got to see the other one a couple of times, so...

14 COUNCILMEMBER KNAPP:

15 Thank you, and so, I just want to make that note and also...

17 MARLENA MICHAELSON:

18 And I do have a technical correction when you're ready. It was just distributed to you. It's
19 just a one-liner that indicates that this is a transit station development area. As you
20 amended the I-4 zone, all the amendments applied as transit station development areas
21 and planning staff realized that we hadn't clearly had the designation and so that's a
22 technical adjustment.

24 COUNCILMEMBER KNAPP:

25 Great. Thank you and again, this is our first master plan, the first the Council has done
26 since we've completed the Damascus master plan, I think, almost three years ago and so
27 this is the first for this Council. This was a fairly innocuous one, fairly straightforward, and
28 that was good. I don't think that the next three we'll be quite so lucky, but this was a good
29 place for us to cut our teeth. I do want to thank the Planning Board, Planning Board staff,
30 and our staff, Ms. Michaelson and Mr. Zyontz for shepherding this through, and with that, I
31 put forward with the-- We took a straw vote on it, full Council, two weeks ago.

33 COUNCIL PRESIDENT ANDREWS:

34 Okay. Would someone like to make a motion?

36 COUNCIL VICE PRESIDENT BERLINER:

37 I so move.

39 COUNCILMEMBER KNAPP:

40 Second.

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1 COUNCIL PRESIDENT ANDREWS:

2 All right, so moved by Council Vice President Roger Berliner, seconded by
3 Councilmember Knapp. Any discussion? No. All right, and I understand we do not need a
4 roll call on this. Show of hands will suffice, right? Okay, so all those in favor of the
5 Twinbrook Section Plan, please raise your hand. Ms. Floreen is voting as well. I see her
6 hand. She is waving. It is 9-0, unanimous. Next item, Item 7, Action on the Limited
7 Amendment to the Wheaton Sector Plan. I'll turn to Chair of PHED Committee again.

8
9 COUNCILMEMBER KNAPP:

10 We also have an additional staff modification. One of the issues that we had asked for in
11 Committee was to make sure that the parcels and the density in the parcels were
12 compatible with the adjacent parcels, and in going back and doing some calculations, staff
13 had identified the fact that if you included workforce and MPDUs that the density that was
14 going to be included, and I forgot which parcel that would be on.

15
16 MARLENA MICHAELSON:

17 It's Parcel 920, which is the WMATA parcel at the northern end...

18
19 COUNCILMEMBER KNAPP:

20 It was going to be much, much greater than I think any of us had anticipated and so I
21 would ask Ms. Michaelson to just tell us what she's recommending.

22
23 MARLENA MICHAELSON:

24 The Committee had thought that a density of about 50 units per acre was right for this site.
25 However, with all of the bonuses, it would have been as high as 72 units per acre. So, I'm
26 recommending that the base density be changed to 40 units per acre which means that if
27 you get all the possible bonuses, you would get 57 units per acre which is pretty
28 consistent with what the Committee thought would be a good target, and the resolution
29 does reflect that change, but I wanted to bring the Council to attention.

30
31 COUNCILMEMBER KNAPP:

32 I appreciate that and I think that is consistent, and with that, Mr. President, I would
33 commend to the Council the Wheaton Central Business District Sector Plan Limited
34 Amendment.

35
36 COUNCIL PRESIDENT ANDREWS:

37 Thank you, Councilmember Knapp. Is there any discussion on this item? I don't see any.
38 Good. All right.

39
40 COUNCILMEMBER KNAPP:

41 Lots of discussion, just not on this item.

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1 COUNCIL PRESIDENT ANDREWS:

2 We had a discussion last week to some degree or the week before. All right, all those in
3 favor then--and this is a show of hands as well--in favor of this, please raise your hand. I
4 see Councilmember Floreen. Are you in favor of this?

5
6 COUNCILMEMBER KNAPP:

7 She is.
8

9 COUNCIL PRESIDENT ANDREWS:

10 She is. All right. That's 9-0, in favor of the limited amendment to the Wheaton Central
11 Business Sector Plan. Thank you, everybody. I wanted to just clarify, we were handed a
12 couple clarifications that were regarding the Twinbrook Sector Plan. I think everybody
13 received and I hope understood that that was incorporated into the motion on the
14 Twinbrook Sector Plan which was page 52. Add the following sentence, "The Transit
15 Station Development Area includes all of the properties within the Twinbrook Sector Plan
16 boundary," and page 54, add "The Transit Station Development Area to the map for
17 zoning." So, that was incorporated into the resolution, and I wanted to make sure that was
18 clear. Okay. Item E is the introduction of Zoning Text Amendment 08-17, Wheaton Central
19 Business District's boundaries sponsored by the district Council at the request of the
20 Planning Board and we need a motion to establish a public hearing for January 13th at
21 1:30 p.m. Motion by Councilmember Trachtenberg, seconded by Councilmember Knapp.
22 All those in favor of scheduling the public hearing, raise your hand. All. That's unanimous.
23 Okay, we also have Item 8.1 on the agenda this morning which is introduction of ZTA 08-
24 18, land use, Christmas tree sales, resolution for public hearing for February 3rd, 2009.
25 And so moved by Council Vice President Berliner and seconded by Councilmember
26 Leventhal.
27

28 JEFF ZYONTZ:

29 If I may just suggest one thing from the text that you have before you and that is to say it's
30 an amendment to delete or revise the date restrictions so that it gives the Council some
31 flexibility in doing that.
32

33 COUNCIL PRESIDENT ANDREWS:

34 That appears to be acceptable as an amendment. Okay, very good. All right, all those in
35 favor of establishing the public hearing for February 3rd on that item, please raise your
36 hand. That is unanimous. Thank you, all. Item 9 is Action on Zoning Text Amendment 8-
37 11, Residential Zone Standards, and before we go into that, I want to recognize
38 Councilmember Trachtenberg.
39



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1 COUNCILMEMBER TRACHTENBERG:

2 Yeah, just a point of personal privilege which is to ask the Clerk to add me as an
3 affirmative vote for the Road Code Design Executive Reg. I was out of the room. Thank
4 you very much.

5
6 COUNCIL PRESIDENT ANDREWS:

7 No objection to that. Thank you, Councilmember Trachtenberg. And so, that is noted. All
8 right, action on Zoning Text Amendment 08-11, Residential Zone Standards. I will turn to
9 PHED Committee Chair Mike Knapp.

10
11 COUNCILMEMBER KNAPP:

12 Thank you, Mr. President. This ZTA 08-11, Standards for Residential Zones, was brought
13 to the Council by Councilmember Berliner. It was co-sponsored by Councilmembers
14 Andrews, Elrich, and Trachtenberg to address the issue of infill development. Throughout
15 the county, in particular, there are some issues within District 1, but they clearly do have
16 effect in places more than just there. I will walk through some of the overview of the
17 committee and the recommendations. I know that Councilmember Berliner has some
18 clarifications that he would like to propose and there are also some things that staff
19 actually needs to clarify that have come to light since the last PHED committee
20 worksession. So, this was introduced back in May. The Committee has had four different
21 worksessions and they were fun. We all learned a lot about the various zones and the
22 impact of lot coverage and a variety of other things, but basically, the ZTAs introduced
23 would do four major things--first, lower the maximum height for certain lots in the R200
24 Zone, reduce the maximum building coverage for certain lots less than 40,000 square feet
25 in an area of one-family residential zones, primarily, R40, R60, R90, R150, R200, amend
26 provisions concerning an established building line by specifying the buildings to be
27 included, the building to be excluded, and an alternative method to determine the setback
28 required, and require regulations to implement the provisions for any sloping lot. One of
29 the things that the Committee was trying to wrestle with was specifically what is the
30 problem that we are trying to solve? And Mr. Berliner sat in with us for all of our
31 Committee worksessions. We were pleased. We're going to give him honorary status at
32 the PHED Committee, but the primary problem that we understood as trying to be
33 addressed was newly constructed homes in established neighborhoods that loom over
34 neighbors and invade privacy. This obviously is subject to some interpretation depending
35 upon which neighborhood you're in, the environment of the neighborhood, and so we
36 wrestled with this for quite a bit. As introduced, the ZTA was pretty broad in scope and
37 potentially placed reduced building coverage limits on nearly 147,000 properties. One of
38 the things that was included in the ZTA was limiting the lot size for those homes that were
39 subdivided before 1996. What the Committee did in working with Mr. Berliner and working
40 with Mr. Zyontz was to really begin to identify what was probably the best line of
41 demarcation, and we used the year 1978 as the year for subdivision because that was a



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1 significant year in Montgomery County because that was the last time the Zoning
2 Ordinance was written. So, we thought that there was a bright light on 1978. By using that
3 as the recommendation, that then modified the number of parcels that would be affected
4 from 147,000 down to about 119,000, and if you look at how development in the County
5 has occurred, that also kind of drew a line between kind of those older subdivisions in our
6 County, primarily those inside the Beltway, versus those outside the Beltway that really
7 weren't necessarily seeing the same issue at this point in time that we're seeing in some
8 of our inside-the-Beltway communities. Let me look through my pieces here. As we began
9 to look at all the various pieces, we obviously looked at the various recommendations that
10 came before us. The Planning Board's recommendation came to us on a 2-2 split. Some
11 of the board members thought that existing houses should have the ability to rebuild under
12 current development standards. Those members who did not endorse 08-11 thought that
13 there were too many unanswered questions, and so, as a result they came forward to us
14 with a tie, which is always helpful. The Executive provided comments that conceptually
15 they were supportive of some of the principles that were outlined here but did not give a
16 specific endorsement of the legislation. As I indicated, we have addressed, we took four
17 different worksessions on this, yes, four, and there were still some feedback that we got.
18 As a result of those four worksessions, what the Committee then moved forward with
19 addressed these issues. We recommend the following-- definition of lots that should have
20 reduced building coverage, any building or construction of a one-family dwelling on the lot
21 in the R60, R90, or R200 zone, if the lot was created by a plat recorded before January 1,
22 1978, or by a plat of re-subdivision that created fewer than 6 lots on a lot previously
23 created by a plat recorded before January 1, 1978, that the lot is less than 20,000 square
24 feet in area and that the construction proposed is more than one story, excluding any
25 basement, and is a new one-family dwelling, the demolition or reconstruction of more than
26 50% of the floor area of the dwelling existing on the effective date or the addition of more
27 than 50% of the floor area of the dwelling on the existing effective date. Now, there are
28 changes. We eliminated some of the zones that had been proposed by Councilmember
29 Berliner. I think that was a fine element. I think there are a couple of things in here that Mr.
30 Berliner, as the sponsor of legislation, is not necessarily thrilled the Committee did. I
31 would also note that much of what Mr. Berliner had put in his legislation was as a result of
32 a taskforce that he had chaired made up of a number of community representatives and
33 representatives from the building industry, and so that's where a lot of the information
34 came from. One of the other concerns that the Committee had was trying to address the
35 issue where the issue existed while not necessarily spilling over into communities that
36 weren't necessarily seeing this and we didn't necessarily have the same level of concern,
37 and so we tried to kind of narrow it down in the most appropriate way so that those
38 communities that are dramatically impacted can be addressed and so tend to hold
39 harmless effectively the rest of those elements in the county, and so that was the
40 Committee's recommendation and that's where we got to. I think that we were close where
41 there are a couple 2-1 votes but we actually did pretty well at reaching general consensus.



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1 Mr. Elrich is obviously fine with the bill as introduced because he is a co-sponsor, but I just
2 wanted to now turn to Mr. Zyontz to clarify a couple of points, see if any community
3 members have comments, then turn to Mr. Berliner.

4
5 JEFF ZYONTZ:

6 Just to note, one of the things the Committee did recommend changing was the effective
7 date, for it to be 140 days from the date of the Council action, and then it applies to
8 anything that does not have a filed building permit. So, if you have a filed building permit
9 within that period, you operate under the current code. There are two things I would raise
10 to the Council. Number one on circle page 10 of the Zoning Text Amendment itself. I tried
11 to do a simple formula that I thought people would understand on how the reductions in
12 the percentage of coverage will work, and I put that in flat square-footage terms, and after
13 a couple of e-mails coming back and forth, I find that it does not accomplish what the
14 committee wanted to do. It is not an even percentage down. So to rectify that, I'd
15 recommend you see on line 133 it would delete from 30%. I would keep that and say 30%
16 less, and here, I would delete the one and say, "0.001% for every--" Delete "1,000" and
17 delete "feet" and put "square-foot." So, for every square foot above 1,000, the percentage
18 is reduced by 0.001%, and basically that accomplishes what you wanted without having a
19 jagged edge where a property with less land area got more building coverage. Trust me,
20 this is a more even curve and I actually drew the curve in the staff report to reflect what
21 this would reflect. What I actually had here before would not accomplish that, and then
22 thereafter that, I would delete the additional words from the maximum building coverage to
23 the end of the sentence, and I would propose that amendment accomplishes the objective
24 of reducing the percentage, 1% for every 1,000 square feet above 1%. I'm sorry if that
25 was complicated.

26
27 COUNCILMEMBER KNAPP:

28 It was, but it kind of speak to the nature of discussion we've had for the last four
29 worksessions.

30
31 JEFF ZYONTZ:

32 Now, I had two recommendations within my staff report that I hope to get addressed by
33 the Council and they both essentially deal with sloping lots. The Committee had
34 recommended that sloping lots just be addressed in regulations by the Department
35 Permitting Services. After the Committee meeting, I was informed by DPS that in a
36 particular situation, they believe that a legislative change would be necessary if the
37 Council had the intent of excluding some sloping lots from that bill. Let me-- It is show and
38 tell, right? Tuesday was always show and tell for me. Yes, I have my own sloping lot, and
39 I'll do this in various ways so you can see this, and the whole emphasis of this is to show
40 that on one side, its two-story, and the other side, it's one-story. Now, there's two
41 situations, of course, the road is either here or here. When the road is here and the front



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1 edge of the property is lower than the back edge of the property, it looks like a two-story
2 house to everybody, and DPS now would allow an additional number of stories, even
3 though it looked like more than a two-story house, and by the way, for building height, if
4 the house is within 35 feet of the edge of the road, edge of the right of way, they get to
5 use the elevation of the road to judge the height of the building. If it is more than that, it's
6 judged by the front of the building. In any event, the regs could not address this problem
7 of a sloping lot that's sloped up from the street. I propose some language that would do
8 that, such that this situation would be excluded from additional stories, whereas this
9 situation where the road is on the uphill side and it looks like a one-story--I don't know if
10 everybody could see how my fine, fine model works here--where this situation would get
11 additional stories. In the same vein, the legislation defines a one-story house and for the
12 purposes of the legislation, this would be a one-story house if the road were higher. At
13 least as I would suggest you amend it, it would not be a one-story house if the road were
14 lower, and that visually, I hope, helps you get through the language that I proposed to the
15 staff report that would amend the sloping lot section and would amend, if you will, the
16 definition of a one-story house in the legislation.

17
18 COUNCIL PRESIDENT ANDREWS:

19 Okay. I thought that was clear.

20
21 COUNCILMEMBER KNAPP:

22 So, where's the language for that?

23
24 JEFF ZYONTZ:

25 The language for that is in my memo. The sloping lot provision is on page 14, which would
26 amend section A5.41 and the definitional one page is on page 9 of the memo, where it
27 actually amends the definition of infill development for a one-story building.

28
29 COUNCILMEMBER KNAPP:

30 Okay. So, where it was before, the cCommittee recommended amending the ZTA to
31 require adoption of regulation within a year. You're still recommending that we do that?

32
33 JEFF ZYONTZ:

34 Adoption of the reg? Yes, because there's still other aspects of the regulation, particularly,
35 how much slope accounts for a sloping lot.

36
37 COUNCILMEMBER KNAPP:

38 Okay. So, we're continuing with the cCommittee's recommendation and then you are
39 suggesting the language in the paragraph towards the bottom of the page.

40
41 JEFF ZYONTZ:

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- 1 On page 14 for sloping lots and page 9 for the infill definitions itself.
- 2

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1 COUNCILMEMBER KNAPP:

2 So then, "Any sloping lot except for the average elevation along the front lot line abutting a
3 street is lower than the average elevation of the lot line along the rear of the lot."

4
5 JEFF ZYONTZ:

6 Correct.

7
8 COUNCILMEMBER KNAPP:

9 Okay. Just want to make sure everyone understands where that is, okay? Let's see if
10 Committee members--

11
12 COUNCIL PRESIDENT ANDREWS:

13 Councilmember Floreen has a comment, yes.

14
15 COUNCILMEMBER FLOREEN:

16 Yes. Well, for those of us who struggled with this last time we did this, which was the
17 height stuff some years ago, what I think we all know is that there is no explaining some
18 people's taste, frankly, and that's what drives a lot of the community concern about these
19 kinds of home construction out in the community, and some perfectly enormous houses fit
20 in neatly with their next-door neighbors', and some stick out like sore thumbs, and
21 regrettably, we don't have a lot of control over those relationships, and I know that the
22 taskforce talked about that. It's a somewhat insurmountable problem, and frankly, I know
23 that, in particular the Bannockburn community has a lot of personal interest in this
24 initiative and some of, certainly, the Bethesda communities are particularly engaged, and I
25 wish that we had a better way of addressing their concerns, and some of our
26 communities, when we do a master plan, we do an overlay zone, and that allows the
27 community basically to establish its own criteria in a way that is distinct and appropriate
28 for that particular community, and I would still offer up to the Bannockburn community in
29 particular that we figure out if there's a way to do that because I know they've got really,
30 really strong feelings and I don't question the validity of them. The challenge for doing this
31 stuff this way is--what we figure out?--there are over 140,000 properties that are affected.

32
33 JEFF ZYONTZ:

34 Committee's recommendation--

35
36 COUNCILMEMBER FLOREEN:

37 Well, we started out with about a 147,000 homes, properties, folks who really, you know,
38 aren't particularly engaged in this, and of that, of course, a rather small subsets of our
39 residents care very passionately about this, so we work to, as Mike said, try to focus on
40 the problem, and once you understand the problem, you can worry about the solution a
41 little bit better and I think we made some inroads on that. Since my time as a Mayor, as



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1 member of the Park and Planning Commission, I've dealt with this stuff every which way
2 and I have found that no matter what you do, you're still not going to make people happy.
3 There will always be challenges, but I think what we did ultimately was just sort of winnow
4 down. One of the other problems was that under the initial proposal, we've discovered that
5 there were about 14,000 homes, existing families, who were fully boxed in, as it were,
6 without the ability to add on a, you know, bathroom if we didn't worry sufficiently about
7 how the language was constructed, and that took a lot of work for which we're very
8 appreciative of the staff and trying to map this stuff, and it's been very helpful now that we
9 have GIS information and data that we can appreciate the real-life implications of things in
10 different parts of the county where they're intended to solve a problem elsewhere. That is
11 so part of the problem in what we do, trying to avoid unintended consequences. So, I do
12 compliment everyone for their engagement in this. Certainly Councilmember Berliner and
13 his office has spent countless hours on this and I know how hard it is to make everybody
14 happy, and you can't. You do your very best. The part I am currently mystified by is this
15 sloping. I walked my dog last night and I walked around my neighborhood which actually
16 is rather hilly, and a variety of my neighbors and other people I know well own homes on
17 sloping lots, and they don't look like that because every which one is different. All the
18 slopes are, you know, different angles. Some of our more modern homes, you know,
19 they've got cathedral ceilings and they've got garages underneath, and they've got things
20 that, you know, depending upon the environment, fit in perfectly well. I'm a little troubled
21 about this last conversation about sloping lots. Part of the problem was in Committee, we
22 didn't really know what the problem was that this was solving. So, we said, we'll fix it by
23 regulation, I think. Wouldn't that be a fair statement, Mr. Knapp?

24
25 COUNCILMEMBER KNAPP:

26 Yes.

27
28 COUNCILMEMBER FLOREEN:

29 We didn't quite get it, and we were reluctant to engage in an area where we didn't fully
30 understand the application of the rule to existing families. I'm certainly aware in
31 neighborhoods that I drive through rather frequently where there are sloping lots there are
32 a number of homes that are sort of dug in, and I'm not sure that those are problematic in
33 any respect but I honestly am not sure what we are achieving by the changes now that
34 Mr. Zyontz has proposed here on homes on a hill. The way it's written, finish grade is
35 higher. Does not say how much higher. It could be a foot. It's not a hill. It's just a little
36 bump in the landscape could affect the ability of someone to have a garage, I think,
37 underneath the house. As I said, we didn't talk about this in Committee so I haven't had a
38 chance to air my concerns. Likewise, I mean, the real issue for most of the communities is
39 height, and this doesn't address height. It addresses, I think, how you characterize a
40 basement versus a cellar. So, for example on your-- I think that's a firehouse, if I'm not

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1 mistaken. If the firehouse had-- If you wanted to scoop that up and the firehouse parked
2 its truck or the chief's car underneath, on the other side on the downhill side--

3
4 JEFF ZYONTZ:

5 On the downhill side.

6
7 COUNCILMEMBER FLOREEN:

8 Yeah, on the other side.

9
10 JEFF ZYONTZ:

11 Yeah. Well, if he wanted to do that, I'd turn the house...

12
13 COUNCILMEMBER FLOREEN:

14 They wanted to put-- There you go. You very typically see homes like that with another
15 story, and the question is, is that the problem? If the first level is actually a cellar, which
16 means more than half of the side is under the ground, it doesn't count, right?

17
18 JEFF ZYONTZ:

19 Correct, it's not a story.

20
21 COUNCILMEMBER FLOREEN:

22 So, it's only when--

23
24 JEFF ZYONTZ:

25 When it's a basement which is more than 50% of the--

26 COUNCILMEMBER FLOREEN:

27 It's mostly above ground, and I'm not sure if the language that you're proposing precludes
28 my fire chief from having a home on a hill where he can continue to park his-- You know,
29 basically have a basement or a cellar, basically have a cellar and then have two stories
30 above with the natural accoutrements, possibly a sliding board and all the things that
31 firemen need.

32
33 JEFF ZYONTZ:

34 Two separate issues, one is sloping lots, and again, the sloping lot provisions allows you
35 to have more stories. If you're a cellar, it doesn't count as a story. If you're a basement, it
36 counts as a story. So, under, you know, the existing zoning code without the sloping lot
37 provision, they can have two and a half stories today. The question is whether they can
38 have more than two and a half stories under a situation where the road is lower than the
39 building itself. The second issue is what qualifies as a single-family house for the
40 purposes of this legislation? A single-family house would get to use the current building
41 coverage. If it's not a single-story house, however, you can still do a single-story addition

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1 to the current building coverage, but it would exclude this type of house, facing you this
2 way with the road down below where the front elevation was lower. That's all it's doing.
3 So, it still has other parameters that it can undertake. I was concerned that some
4 committee members or the Council might have had in their mind that they can do by
5 regulation what DPS would suggest that you cannot do under the existing law, which was
6 to exclude the house where the road is lower than the rear of the property.

7
8 COUNCILMEMBER FLOREEN:

9 Do we have any visual examples of what this problem-- Well, apart from that, I mean real
10 ones. That would be the Zyontz residence. Are there any examples of the problems that
11 we're solving with this one?

12
13 JEFF ZYONTZ:

14 It's possible to get them but I don't have them.

15
16 COUNCILMEMBER FLOREEN:

17 I mean, did the taskforce look at this? Mr. Berliner?

18
19 COUNCIL VICE PRESIDENT BERLINER:

20 No.

21
22 COUNCILMEMBER FLOREEN:

23 As you know, we didn't talk about it in Committee which is why--

24
25 COUNCIL VICE PRESIDENT BERLINER:

26 There was a reason why we didn't talk about it in Committee, quite frankly, and it was
27 because the whole purpose of the taskforce work with respect to sloping lots was that
28 sloping lots is a somewhat ambiguous term, and the goal with respect to-- The main thrust
29 of the legislation was designed to ensure that we got regulations coming back to this
30 Council that gave more clarity to what a sloping lot is.

31 COUNCILMEMBER FLOREEN:

32 I mean, in terms of the degree.

33
34 COUNCIL VICE PRESIDENT BERLINER:

35 Percentage and how they would interpret because now, the general rule of thumb is 10%
36 but there have been some that have been approved at 8.5%, and so, there's been a great
37 deal of variation and it is an issue for people who live next door to them. I believe that
38 that's an understatement. It is a problem, but the thrust of the legislation wasn't to resolve
39 the problem in this legislation per se. It was to create a context in which DPS would in fact
40 come forward with very specific regulations. Where it became necessary, in staff's opinion
41 and I think appropriately so, to address it in a small way was when the Committee and

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1 when the sponsor of the legislation recommended excluding from the scope of the bill
2 one-floor plans because one-floor plans aren't McMansions. So, since one-floor plans
3 aren't McMansions, we wanted to exclude them, but once we did that, it raised an issue as
4 to whether or not, is it really a one-floor plan or is it a two-floor plan. Is it a two-floor plan
5 because of this sloping-lot phenomena that would be seen from the street? So, the one
6 aspect of staff's recommendation is to ensure in that limited context where we're giving an
7 exemption for one-floor plan that it's truly a one-floor plan, at least as seen by the street,
8 okay? And so, that piece of it I understand to the extent to which--and maybe, staff, you
9 could help me understand--the second half of your recommendation to the Council is with
10 respect to the regulations that we're asking back from DPS.

11
12 JEFF ZYONTZ:

13 Right.

14
15 COUNCIL VICE PRESIDENT BERLINER:

16 And there, what you had been advised by DPS is that if we want to address this, if you
17 want to address this, you need a change in the statutory language because unless you
18 change the statutory language, you won't get the option of addressing it in the regulations
19 when it comes back to you. So, this doesn't predetermine the outcome. It simply allows for
20 this possibility to be addressed in the final regulations that, otherwise, could not have
21 been addressed, but for the change in the statutory language.

22
23 COUNCILMEMBER FLOREEN:

24 Is there a language that indicates that? I thought this eliminated that effort.

25
26 JEFF ZYONTZ:

27 It actually goes a little further and says in the situation where the street is lower, you can't
28 have more stories, and it does that. This was a situation that-- I was working on the Code
29 Enforcement Committee too. It was a situation that was in Eastern Montgomery County
30 where additional stories were granted with a lot that sloped up and people complained
31 about the monster house. Remember, you can always get two and a half stories. This was
32 more stories depending upon -- within the height limit. So, I did not want to allow the
33 Council to think that they can address this problem later down the line in regulation when
34 if you want to address it, you have to address it. You should address in the legislation
35 either now or some other time.

36 COUNCILMEMBER KNAPP:

37 I guess that would be my point and since we didn't really address this in the course of our
38 four committee worksessions and we have asked for regulations which would provide
39 context, could we have DPS during the course of that actually give us some sense as to
40 where we think this actually has effect and in the course of their recommendations and
41 regulation, if they feel that it's necessary to have this statutory language to make that

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1 recommendation as well and we can deal with them both at the same time. I mean, then,
2 at least, we're dealing within the same context as opposed to having this piece, but we're
3 still waiting for them to come up with the regulations in a year and other elements.

4
5 COUNCILMEMBER FLOREEN:

6 Yeah.

7
8 JEFF ZYONTZ:

9 Right, but it's a matter of policy to DPS. They would never say no to you. They would just
10 say that within the scope of this legislation, this is what you can do.

11
12 COUNCILMEMBER KNAPP:

13 Let's ask for that analysis, then. Let's ask for --I mean, we need to see it in better context I
14 think because we didn't spend any time really deliberating over this and I think even with
15 the sponsors saying, "Well, that was the notion for the regulations in the first place." So,
16 let's try to do that and if we need to make a statutory change at that time, let's do it then in
17 that context as opposed to confusing things even further today.

18
19 JEFF ZYONTZ:

20 Right, that's one of the two issues. The second one was what qualifies as a single-story
21 house.

22
23 COUNCIL VICE PRESIDENT BERLINER:

24 The single-story house, and I hope my colleagues will be comfortable in that context since
25 we're creating an exception in the statute for a single-story house that we adopt staff's
26 recommendation with respect to that piece of it.

27
28 JEFF ZYONTZ:

29 Again, that was on page nine.

30
31 COUNCILMEMBER FLOREEN:

32 That's on page eight.

33
34 JEFF ZYONTZ:

35 Nine.

36
37 COUNCILMEMBER FLOREEN:

38 Definition of Infill.



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1 JEFF ZYONTZ:

2 Well, it changes the definition of infill. My actual language is under Infill Development C
3 sort of in the middle of the page with the underlined text.

5 COUNCIL VICE PRESIDENT BERLINER:

6 Now, it'd only be relevant for one-story homes.

8 JEFF ZYONTZ:

9 Correct.

11 COUNCIL VICE PRESIDENT BERLINER:

12 Thank you.

14 COUNCILMEMBER KNAPP:

15 That's okay. We're going to go back through those pieces. Okay, let me get to Mr. Elrich
16 and the bill sponsors.

18 COUNCILMEMBER ELRICH:

19 I want to thank Roger and his staff for working on this and staying with it throughout this
20 process and it's a little bit different piece of legislation than was originally introduced, and
21 it's taken a lot of work to get there. I just want to reinforce that the issue that's being
22 addressed in this bill is not a Bannockburn issue. I've heard about this in neighborhoods
23 along Connecticut Avenue. I've heard about it in the Woodmoor neighborhood. I've heard
24 about it from Councilmembers who represent other districts on the exact opposite side of
25 the county. I've heard about it in Silver Spring and while there may be a small number of
26 people who are concerned about it, as soon as one of these pops up in the neighborhood,
27 that small number of people that's concerned about it vastly increases, and so, I think the
28 legislation is necessary and I think it's an important piece of legislation. I want to be frank
29 and say that I think that it's important to deal with the issue that Jeff has brought before
30 us, if not today, sooner than later, because a lot of the misgivings about this come from
31 interpretations of DPS staff and a lot of uncertainty in the community as community
32 members coming and saying, "This doesn't look right. This doesn't make sense. The
33 regulations say this," and DPS staff either say, "Well, this is our interpretation of the
34 regulation," or that the policy isn't clear. And in either case, we wind up with unhappy
35 people who don't think that what's being permitted should be permitted under the law. The
36 laws look one way. What's allowed looks a different way and there's a lack of clarity, and I
37 think we need as much clarity as possible since there seems to be an amazing latitude on
38 how these things get interpreted, and I think this will clear that up. So, if we don't deal with
39 what you've brought to us in issue number one today, I do hope that the Council takes it
40 up and Roger brings it back sooner than later so we can actually deal with it definitively in
41 short order. Having said all that, I will be, you know, supportive of this. I look for, you



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1 know, any words of wisdom as you go forward in getting to the final vote on this, but I
2 think we've done the right thing. I think that we're gonna be appreciated in communities
3 beyond the boundaries of Bannockburn when this is done.

4
5 COUNCILMEMBER KNAPP:
6 Mr. Berliner?

7
8 COUNCIL VICE PRESIDENT BERLINER:

9 Thank you, Chairman Knapp and let me observe that this is the end of an 18-month
10 process in which we have worked very hard, in which our taskforce members worked very
11 hard, in which my staff has worked very hard. I see Rebecca Lord here. This was
12 Rebecca's baby for a long, long time and would not be where it is without you, Rebecca.
13 Thank you, and for Miti Figueredo, thank you. You took up the task when Rebecca
14 abandoned me for some other Councilmember.

15
16 UNIDENTIFIED:
17 Ha ha ha!

18
19 COUNCILMEMBER FLOREEN:
20 Thank you.

21
22 COUNCIL VICE PRESIDENT BERLINER:

23 Yeah, but it has been a long road and it has been a road-- I heard my colleague recently
24 talk about the legislative process and somehow, sometimes it looks more like sausage.
25 That's not the case here. In this instance, the legislative process really worked the way it
26 should work which was to ensure that the main thrust of this legislation--which is to allow a
27 more graceful transformation of our neighborhoods, to ensure that there isn't a loss of
28 privacy, a loss of sunlight, a loss of value to the homes that are sitting next to some of
29 these towering, quote, "McMansions"--that we do that without overreaching. So, Mr.
30 Knapp had always been concerned. Gosh, this is primarily a down county situation. It
31 shouldn't really affect Germantown. So, we looked at that. We worked on the definition of
32 infill to ensure that it didn't overreach, that it focused on our older communities which was
33 always the intent with respect to it. Ms. Floreen in Committee came up with an excellent
34 suggestion which was to ensure that the legislation does not affect modest additions. I
35 recall very vividly when Councilmember Leventhal turned to me and he said, "Roger, does
36 this mean, you know, I can't put on an addition to my kitchen?" And so, we said, "No,
37 that's not which driving the angst in the neighborhoods." That's not what's making
38 neighborhood associations crazy about this phenomena. It's new teardowns, new homes
39 that are going up that, quite frankly, are a little too large on the smaller lots. So, what we
40 sought to do was to come up with a meaningful but measured response that could hold
41 both neighborhood activists and builders together and see the reasonableness of this



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1 approach, and that's what we've produced so that on our small lots-- I doubt I can
2 embarrass Richard Mandell. He past that, but I will say to you, I want you to look at a
3 picture of this home because this home sits on a 6,000 square-foot lot. It's a four-
4 bedroom, upstairs four-bedroom home. Four-bedroom home that works on a 6,000-
5 square foot lot under this definition. It's a beautiful home. We can have lovely homes that
6 don't tower over our neighbors that are tasteful. You're right, Councilmember Floreen. We
7 can't dictate tastes and this legislation doesn't except in certain areas where we exempted
8 from lot coverage chimneys, bay windows, and porches because we want to encourage
9 that. We want a community that looks in many ways like this. This is a good model. On the
10 smallest lots, we can have houses that are 4,500 square feet. We are not removing the
11 American dream from anybody's reach. We can have very large homes and will have, but
12 not so large that they literally loom over their neighbors and deprive them of sunlight and
13 privacy. So, I feel like this legislation has struck the right balance. It doesn't overreach. It
14 ensures that it isn't about additions, but about new homes. It assures that we can have
15 neighborhoods and you spoke, Councilmember Floreen, about the character of
16 neighborhoods in our last bill of context sensitive roads and how important the character
17 of neighborhoods are. "Community character," I believe, was your phrase. That's what this
18 bill seeks to preserve, community character, and I think it achieves that and I thank my co-
19 sponsors. I thank my colleagues who worked so hard on this and all my colleagues
20 because I've had conversations with each of you and believe that we're in a position I
21 think to very strongly endorse this legislation, and I want to thank the taskforce members
22 because everyone worked very, very hard with respect to this and I think have reason to
23 be proud of the result that we've reached. So, with that I'm happy. I've got two modest
24 amendments at the appropriate time in addition to those that we've just discussed with
25 respect to staff's recommendation.

26
27 COUNCILMEMBER KNAPP:

28 Mr. Zyontz actually laid out a pretty good package. So, starting on page five, just going to
29 walk through these so people know anything that's going to be proposed in context and
30 also Councilmembers have comments or questions when we get to the appropriate time.
31 So, if you turn to page five, there are four issues addressed by ZTA 08-11:
32 limiting building coverage, limiting building height, established building lines, and sloping
33 lots. Starting with building coverage, the scope, Committee recommended reducing the
34 scope of building coverage limited to ZTA 08-11. Building coverage should apply only to
35 subdivisions plotted before 1978 and re-subdivisions of those lots thereafter which was
36 the one step that moves us from about 147,000 homes down to 119 that are affected. Lots
37 smaller than 20,000 square feet zoned R60, R90, and R200, and three multi-story new
38 houses and certain multi-story additions. Questions?

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1 COUNCIL VICE PRESIDENT BERLINER:

2 I have an amendment I believe at that particular point on the 20,000 square foot limitation.
3 Would that be the appropriate place to have that amendment? As introduced, the bill
4 actually included all lots up to 40,000 square feet. In Committee, I was prepared to go
5 down to 30,000 square feet and after conversations with the Bannockburn community in
6 particular, concluded that we could go as low as 25,000 square feet. This is an important
7 amendment for a number of communities because currently, the legislation that emerged
8 out of Committee is limited to 20,000 square feet. I am seeking to amend that only slightly
9 to go from 20,000 to 25,000 square feet. The pictures I have shown you are-- Here's a
10 house at 25% lot coverage, which is the current rule today, on 25,000 square feet, okay?
11 It's a very, very large house. My amendment would reduce that again to 20% on a 25,000
12 square foot lot which produces a very, very large home, okay? We are, again, not
13 depriving people of the American dream here. People still will be able to have very large
14 homes and there are many areas in our down county, and Bannockburn is one of them, in
15 which this is very important. So, I will be asking for-- At appropriate time, I would so move
16 to--

17
18 COUNCIL PRESIDENT ANDREWS:

19 Okay, that's moved by Council Vice President Berliner, seconded by Councilmember
20 Elrich.

21
22 COUNCILMEMBER KNAPP:

23 I would just comment that personally, one of our challenges in the Committee was to, I
24 think, try to address the issue as presented by Councilmember Berliner without having
25 spill-over effect into other parts of the county where this issue perhaps is not as
26 significant, and I think that, while I appreciate the amendments as proposed by
27 Councilmember Berliner, I think that that would change the scope and add an additional
28 9,000 units perhaps.

29
30 JEFF ZYONTZ:

31 Right. It's about 8,000 between 20,000 square feet and 25,000 square feet in the zones
32 that you're talking about, and then another little bit less than 4,000 between 25,000 and
33 30,000.

34
35 COUNCILMEMBER KNAPP:

36 I struggled with this but I think that trying to get the issues addressed where they need to
37 be addressed while at the same time limiting the effect to other parts of the county, the
38 parts that don't even know we're having this debate right now, I think was important. So, I
39 think the 20,000 number that gets there. I recognize there might be a community or two
40 that could still be affected in ways that they aren't thrilled, but I think, you know, we're
41 going to get it one way or the other and I think by doing this, we are minimizing the effect

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1 on other communities outside of our older inside-the-Beltway communities and I think
2 that's an important element. So, I would encourage people to continue to stay with the
3 committee's recommendation because I think it addresses the intent of the bill law, the
4 intent of the sponsor while at the same time limiting the effect on communities who
5 actually just don't even know we're having this discussion that there will be impact on their
6 potential rights to do something with their homes at a future date.

7
8 COUNCIL PRESIDENT ANDREWS:

9 Is there any discussion on the amendment? Okay, I don't see any. All right? All right. We
10 will then vote on the amendment. All those in favor of the amendment, raise your hand.
11 That's Councilmember Elrich, Praisner, Trachtenberg, myself, Councilmember Berliner,
12 Valerie Ervin--Councilmember Ervin--and Councilmember Leventhal. Opposed?
13 Councilmembers Floreen and Councilmember Knapp. Okay, and it passes is 7-2. Okay.

14
15 COUNCIL VICE PRESIDENT BERLINER:

16 While we're on scope, I would just like to ask clarification. We have the single-car garage
17 issue. Where does that go, Mr. Zyontz, in terms of scope?

18
19 JEFF ZYONTZ:

20 It would be within this section really because what I know you're going to suggest is to
21 exclude a portion of a garage in addition to the garage itself. As the definition now goes, a
22 detached garage of less than 241 feet is not counted for building coverage, and I know
23 that you had some amendments to that text.

24
25 COUNCIL VICE PRESIDENT BERLINER:

26 Yes, let me share with my colleagues an amendment that I really believe should be non-
27 controversial. At the suggestion really of Park and Planning, we had figured out that
28 having a single-car detached garage was actually a positive architectural feature, moved it
29 and reduced the size of houses as a function of that. So we excluded -- in the legislation
30 before us as drafted, we had reached an agreement in our taskforce to exclude a 240-
31 square-foot single-car detached garage. It was brought to my attention in a typically
32 understated manner that that would not work, that you literally could maybe park a car
33 there but you couldn't put the lawn mower in and that it would end up being a shed as
34 opposed to a single-car detached garage. So, the solution that we came up with was still
35 having the exception for 240 square feet, but allowing if you will a single-car garage to be
36 up to 350 square feet, but the additional square feet above 240 to 350 would count
37 against the lot coverage. So, there's no incentive for a builder to do that if they want to
38 maximize the size of the house because it will come out of the footprint of the house. So,
39 the result of this amendment is to allow people that want a single-car garage that actually
40 functions in that manner to have it and if they decide to go above 240 square feet, they
41 can do so, but it does come out of their lot coverage and therefore, results in a smaller

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1 house. So, I think it reinforces in both ways the objectives of the Committee's action, of
2 the Council's action here today, and certainly of the sponsors and the co-sponsors. So, I
3 would commend this modest amendment for your approval and would so move it.

4
5 COUNCIL PRESIDENT ANDREWS:

6 All right, that's moved by Council Vice President Berliner, seconded by Councilmember
7 Trachtenberg. Any discussion on the amendment? I don't see any. All right. We'll run the
8 amendment then. All those in favor of the amendment, please raise your hand. That's
9 Councilmember Elrich, Councilmember Praisner, Councilmember Trachtenberg,
10 Councilmember Floreen, myself, Council Vice President Berliner, and Councilmember
11 Leventhal. The amendment passes 7-- Well, all opposed? Councilmember Knapp,
12 Councilmember Ervin, 7-2.

13
14 COUNCILMEMBER KNAPP:

15 Okay. The next issue is the standards. The Committee recommended limiting building
16 coverage but formally allows an increased building footprint with increased lot size. Mr.
17 Zyontz just walked us through his modifications to that. I don't see any comments.
18 Number three--established building line. The committee recommended clarifying
19 amendments to the ZTA as introduced. The established building line provision should
20 allow building permits to determine a neighboring setback and exclude setback
21 established by variances and then we've already had our discussion on sloping lots in
22 which we're going to get the full context of the sloping lots, regulation as proposed or if
23 there's statutory language that they would recommend to address the issue that that
24 would come forward at the same time.

25
26 JEFF ZYONTZ:

27 How about within the one-story definitional section, did you accept the staff's language
28 or...

29
30 COUNCILMEMBER KNAPP:

31 I think so, yeah.

32
33 COUNCILMEMBER FLOREEN:

34 Just a technical question.

35
36 COUNCIL PRESIDENT ANDREWS:

37 Do you have questions on this?

38
39 COUNCILMEMBER KNAPP:

40 No.

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1 COUNCIL PRESIDENT ANDREWS:

2 More generic?

4 COUNCILMEMBER FLOREEN:

5 Just a technical question, then, on that whole section of additional stories on sloping lot.

6 We're going to take out?

8 JEFF ZYONTZ:

9 You're going to leave in the part about requiring regs. It's already in the bill.

11 COUNCILMEMBER FLOREEN:

12 Where it says the department must implement this. Oh, okay. We'll just leave that as is.

14 JEFF ZYONTZ:

15 Right, you're not going to accept my amendments. You're going to leave what the
16 Committee recommended on doing regs within about a year before the December break
17 next year.

19 COUNCILMEMBER KNAPP:

20 Okay, so, we have Councilmember comments.

22 COUNCIL PRESIDENT ANDREWS:

23 Yes, Councilmember Ervin then Councilmember Leventhal.

25 COUNCILMEMBER ERVIN:

26 Thank you very much. I want to commend Councilmember Berliner for all his hard work. I
27 didn't really understand where you were going with this legislation in the very beginning
28 because I had a lot of concern about how a legislative body could be inserting its authority
29 on homeowners in this way, but since then, I have to say you've convinced me on a
30 couple of things that are very important. I want to compliment you and your staff. I see that
31 Rebecca Lord is in the audience and I know that when we started two years ago that
32 Rebecca had done a yeoman's job on working on this legislation for you and your office. I
33 still have some concerns. I'm going to vote for the passage of the ZTA but I just want to
34 address a couple of things that are outstanding and I want to say, Roger, you have really
35 shown yourself to be a true collaborator and you have brought this body to a place where
36 we're going to see the ZTA pass. I know that there are many people in your community
37 that were very, very concerned about the issue of mansionization, and as I look at the
38 map of the county, the 120,000 homes that will be impacted by the ZTA, a good chunk of
39 them are in the district that I represent, and so, when you're talking about older homes,
40 you're also talking about people who are elderly whose home is their nest egg and
41 hopefully they will age in place, and so, I know that there are members in your community,

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1 and Jane Fairweather is one, who came to you. You listened. You made some
2 adjustments to the ZTA which I'm very grateful for but I still have a question about a
3 reporting requirement that I hope that you will see fit to add to this bill so that DPS can
4 come back to this Council in one year from now and talk to us about implementation of the
5 ZTA. I think it's very important that there are a lot of applications and trends that may arise
6 in the next 12 months, and we might want to take a look at how this legislation is actually
7 impacting those 119,000 or 120,000 residents of our county whose homes are going to be
8 affected by this legislation. I also want to state just for the case that 73% of all single-
9 family residential homes built prior to 1978 are going to be affected. This is a huge deal for
10 the county, and so, I just want to make sure what we're doing is very thoughtful and that
11 we come back, and we take a look at it in another year, so if you're amenable to adding a
12 reporting requirement, I think that that would be something very important.

13
14 COUNCILMEMBER LEVENTHAL:
15 Second.

16
17 COUNCIL PRESIDENT ANDREWS:
18 Okay. That's moved by Councilmember Ervin, seconded by Councilmember Leventhal.

19
20 JEFF ZYONTZ:
21 Just technically, would you like to do that as a non-codified section of the ordinance you're
22 passing? We already have one non-codified section dealing with regulation.

23
24 COUNCILMEMBER ERVIN:
25 Yes, if that's your recommendation. Is that your recommendation?

26
27 JEFF ZYONTZ:
28 I would think so, but...

29
30 COUNCILMEMBER ERVIN:
31 Absolutely, okay.

32
33 COUNCIL VICE PRESIDENT BERLINER:
34 And I am very comfortable with the thrust of the amendment. I have one clarifying
35 question and perhaps suggestion as to whether or not you would like it to be one year
36 from its effective date. I did have a note here to myself that it would be one year after
37 implementation.

38
39 COUNCIL VICE PRESIDENT BERLINER:
40 I think it's an excellent suggestion, I think we should always see how this is being
41 implemented, and so I'm delighted to take the amendment.

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1 COUNCIL PRESIDENT ANDREWS:

2 Okay. Is there any discussion on the amendment? I don't see any, all right. All those in
3 favor of the amendment as described, please raise your hand. That is unanimous, all nine.
4 That's adopted. Okay, and Councilmember Leventhal.

5
6 COUNCILMEMBER LEVENTHAL:

7 Well, I also want to congratulate Roger Berliner and his staff. I've heard many complaints.
8 His constituents are my constituents as well. There are real concerns about changes in
9 the feeling and the look and the comfort level in certain high-value neighborhoods. I know
10 that there are some concerns in some sectors of the home building industry and among
11 some homeowners about this legislation, but I want to emphasize a few points that Mr.
12 Berliner has emphasized but that enable me to vote for this ZTA with enthusiasm. As Mr.
13 Berliner has pointed out, it only applies to teardowns and rebuilds. It does not apply to
14 additions. It does not apply to one-story homes. We heard concerns about those, and I
15 want to tell you, you are going to be able to build plenty-big houses under this ZTA, so big
16 that I predict that my constituents and Roger's constituents in some of these affected
17 neighborhoods are going to be back because we had this discussion last Council, and Mr.
18 Berliner's predecessor Mr. Dennis passed a bill which I was happy to vote for, a ZTA, that
19 limited height and clarified the number of stories and it didn't thoroughly and fully address
20 residents' concerns, but as others have said, I've just am lending and adding my voice to
21 those. I think Mr. Berliner had done thoughtful and thorough work here, and it's
22 appreciated on my part, and I'm happy to support the ZTA with enthusiasm.

23
24 COUNCIL PRESIDENT ANDREWS:

25 Okay, good. I don't see any other comments.

26
27 COUNCILMEMBER KNAPP:

28 I would just add, I appreciate the efforts. I think Mr. Berliner had done a great job of
29 bringing together the people in his community. I still have reservations just because I think
30 it is-- We try to be very surgical in how we did this. It's a challenge, very surgical, and I
31 think we've done great improvement to address the issue while not necessarily doing it as
32 well as I think we'd all like, but I think that Councilmember Berliner, his staff, the
33 Committee, in particular Jeff Zyontz through his use of the magic of GPS and various
34 other things has done a great job at presenting a number of very complex issues and
35 allowing for people to consider them in a visual way. I think that was one of the real
36 challenges with this is to be able to talk about it. It's one thing to say conceptually but to
37 actually be able to see it, I think, helped a lot both in the impact on the county and visually
38 as we saw with your wonderful aids today.

39
40 JEFF ZYONTZ:

41 Spared every expense.



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1 COUNCILMEMBER KNAPP:

2 Thank you for your efforts. Thank Councilmember Berliner. I'm still struggling. I'm not sure
3 if I ultimately will be supporting this yet because even with the change, I think we've added
4 another 9,000 properties that are going to be affected, and so I think, it's better than where
5 we were. I think it addresses the issue, but I think it still may be a little bit overreaching,
6 but with that I appreciate the Committee's efforts. I appreciate Mr. Berliner joining us for all
7 of our deliberations. I know he had much fun and we look forward to him at our next
8 PHED Committee meeting.

10 COUNCIL PRESIDENT ANDREWS:

11 All right, Councilmember Berliner and then Councilmember Trachtenberg. Actually,
12 Councilmember Trachtenberg first and then you.

14 COUNCILMEMBER TRACHTENBERG:

15 Thank you, President Andrews. Just a general set of remarks. When Roger had first
16 introduced the ZTA, I put my name on it very quickly, and you know, even before I got
17 here to the Council, I would hear directly from so many people in the community about the
18 transformation that was occurring in their neighborhoods and before their eyes. In fact,
19 just a week or two ago when my daughter was in for the Thanksgiving holiday, we took a
20 walk in our neighborhood and were shocked to see, again, some of that transformation
21 just a few blocks away. You know, I think this ZTA is very much a reasonable response to
22 what's really been a polarizing issue in vital neighborhoods here in the county, a polarizing
23 experience that's really pitted neighbor against neighbor, and I can remember when Roger
24 first introduced this, my instinct was to go for it in the beginning and put my name on it
25 because this really is the body that has the obligation to exert itself and make sure that we
26 can do as much as possible to correct that kind of dynamic which is not productive for
27 anyone, and I want to acknowledge all the hard work that Council Vice President Berliner
28 has put into this effort, but I also want to applaud the taskforce who works so diligently in
29 advance dialogue but also advanced a resolution here. So, thank you to all, and especially
30 a big thank you to Council Vice President Berliner.

32 COUNCIL PRESIDENT ANDREWS:

33 I want to note that as well. A lot of hard work went into this bill, complex, went through a
34 lot of changes. A lot of work was done to educate colleagues and others about what we
35 do and how it'd work. I think it's been improved much through the legislative process.
36 Thank my colleague for his hard work, and I will be supporting this as well. I co-sponsored
37 it, and I think it's gotten better as it's gone along, and I'll give Council Vice President Roger
38 Berliner the last word, and we will vote on this amendment, on this Zoning Text
39 Amendment.

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1 COUNCIL VICE PRESIDENT BERLINER:

2 And it will be a very brief word. I want to thank all of my colleagues for their support.
3 We've had numerous conversations, and as a function of those conversations, the
4 legislation has gotten better. The ZTA is better than when it was first introduced, and I was
5 remiss when I was thanking everybody, I did not thank Jeff Zyontz, and, Jeff, really you
6 work so hard with respect to this. I mean that latest slopping lot creation of yours is just
7 one example of how hard you have worked to make sure that all of us understand the
8 implications of these, and I'm very grateful to you, and so thank you.

10 COUNCIL PRESIDENT ANDREWS:

11 Okay. All right, we will now vote. Will the Clerk, please call the roll?

13 CLERK:

14 Mr. Elrich?

16 COUNCILMEMBER ELRICH:

17 Yes.

19 CLERK:

20 Mr. Praisner?

22 COUNCILMEMBER PRAISNER:

23 Yes.

25 CLERK:

26 Ms. Trachtenberg?

28 COUNCILMEMBER TRACHTENBERG:

29 Yes.

31 CLERK:

32 Ms. Floreen?

34 COUNCILMEMBER FLOREEN:

35 Yes.

37 CLERK:

38 Mr. Leventhal?

40 COUNCILMEMBER LEVENTHAL:

41 Yes.

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1 CLERK:

2 Ms. Ervin?

4 COUNCILMEMBER ERVIN:

5 Yes.

7 CLERK:

8 Mr. Knapp?

10 COUNCILMEMBER KNAPP:

11 No.

13 CLERK:

14 Mr. Berliner?

16 COUNCIL VICE PRESIDENT BERLINER:

17 Yes.

19 CLERK:

20 Mr. Andrews?

22 COUNCIL PRESIDENT ANDREWS:

23 Yes. The amendment passes 8-1. All right, good job.

25 COUNCIL VICE PRESIDENT BERLINER:

26 Thank you.

28 COUNCIL PRESIDENT ANDREWS:

29 Okay, we're going to go on to our legislative session. We're obviously running behind at
30 this point, and we have a legislative journal, then a call of bill for final reading. I think we
31 have finished-- We finished the District Council session, right? I believe we have. We are
32 going to defer-- Unless five members of the Council insist, we're going to defer Bill 15-08,
33 the notice issue, which I think will take a similar discussion and does not need to be done
34 today because of the delayed effective date of the ZTA, so we will take that up after we
35 come back in January. I don't see anyone objecting, so that will be deferred. Is there a
36 legislative journal for approval? No, there is not. Okay. All right, then we'll move on to
37 introduction of Bills. First is Bill 37-08--Personnel Disability Retirement Amendment,
38 sponsored by myself and Councilmember Trachtenberg. I'll just comment briefly on this
39 and turn to Councilmember Trachtenberg. As I think everyone is now aware, our disability
40 retirement system needs reform, and this Bill would provide that reform so that the system
41 works the way it's intended by providing disability retirement to those employees who are

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1 disabled in the line of duty but would screen out claims that are not appropriate for
2 disability retirement. That is the goal of the legislation. It has been crafted by primarily by
3 Bob Drummer, our legislative attorney, and reflects a lot of best practices that are used in
4 jurisdictions that have disability retirement systems, and it will be scheduled for public
5 hearing on January 15th at 7:30 in the evening, and with that, I will turn to Councilmember
6 Trachtenberg.

7
8 **COUNCILMEMBER TRACHTENBERG:**

9 Okay, thank you, President Andrews. I would certainly agree with everything that you
10 stated and clearly disability reform, in my mind and I think in your mind, is a complex
11 reform, and it was with that in mind that we took some time to lay the groundwork for the
12 Bill that is being introduced today. Back in September after a number of conversations
13 with the then-Council Vice President, I actually contacted the Maryland Chapter of the
14 American College of Occupational Medicine and Environmental Health, and it was through
15 that networking that we we're able to identify different potential vendors who could work
16 with us actually to establish -- review some of the best practices that are utilized in
17 jurisdictions across the country, and I want to thank our staff director for his hard work in
18 helping us identify the right contractor. Obviously, they put together a report which has
19 been made public. A few weeks back we've all had a chance to look at the fruit of their
20 labor, but what I want to state very directly is that the best practices that they went over
21 are very much grounded in basic public health standards, and I got to say that that's one
22 of the reasons why I have been so interested in pushing for reform in this matter, because
23 of my health training, but also clearly because I've been listening out in the community. I'm
24 not going to go through a long list of the provisions-- they're in the packet--but I think it is
25 important to state that there have been some ongoing discussions as this Bill was being
26 drafted with union representatives. Some of those conversations were directly with me.
27 Some of them have been with the Executive Branch. I had encouraged leadership to
28 approach the Executive. I really am not at liberty to say anything. I clearly don't know the
29 specifics of what's been discussed on the other side of the street, and I am very optimistic
30 that ultimately the union leadership will be part of the solution here. As I know the County
31 Executive indicated this morning, we've all been working in tandem on this reform, and I
32 guess my bottom line from the beginning is that this is really about good government, and
33 good government practice in my mind is not negotiable. I very much believe the people of
34 Montgomery County demand responsible oversight and decisive action to protect what we
35 all believe in, which is we have to protect the disability retirement benefit for those who
36 deserve it and make sure that it's available as a resource to those that serve us with
37 distinction. So, I want to thank the Council President, and I look forward to what I would
38 term a very difficult but necessary conversation.



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1 COUNCIL PRESIDENT ANDREWS:

2 Thank you Councilmember Trachtenberg for your hard work on this issue, and well said.
3 All right, without objection, the Bill is introduced, public hearing scheduled for January
4 15th at 7:30. The next Bill for introduction is Bill 38-08--Fire and Rescue Commission
5 Abolition sponsored by Councilmembers Leventhal, Knapp, Elrich, and Ervin.
6 Councilmember Leventhal?

7
8 COUNCILMEMBER LEVENTHAL:

9 I'll be very brief. You know, we're facing the worst budget that any of us have seen, and
10 we're going to have to make some tough choices. As the Council President has said,
11 "Hard times call for hard choices." There are seven commissioners on the Fire and
12 Rescue Commission. They're making more than a thousand dollars a meeting. The
13 average length of the meeting is less than 45 minutes. Some meetings take 10 minutes.
14 This Fire and Rescue Commission is a vestige of an earlier time. Once upon a time, our
15 fire and rescue service was very decentralized. There was no central decision making
16 point. You had the volunteer companies. You had the career fire fighters, and so the Fire
17 and Rescue Commission really was necessary to bring some coherence and coordination
18 to the entire department. Since the passage of Bill 36-03, the nature of the fire and rescue
19 service has changed substantially, and the responsibilities of the Fire and Rescue
20 Commission have diminished substantially. I understand it still fulfills some useful
21 functions. I understand that it is valuable to have citizen input in the operation of this
22 department. However, under its current structure, it no longer fills the purpose that it once
23 did. I believe it makes sense to abolish it. I understand that every program in county
24 government has a constituency. I understand that anything that we propose to scale back
25 or change or reduce spending, there will be constituents that say, "Oh, no, no, I like it just
26 the way it is," but this is the least hard, I think, of many hard choices that we're going to
27 have to make in the next few months, and I just don't think it make sense. I realize it's not
28 a large amount of money, \$94,761, but it absolutely does not make sense that we
29 continue paying a thousand dollars a meeting to these commissioners, much as I value
30 their service and appreciate their input, and they're citizens of Montgomery County in
31 good standing. This issue was raised a year ago by the County Executive. The Public
32 Safety Committee was not able to come to an agreement on it. We're eight months down
33 the road now--that's \$8,000 per commissioner--and I do believe and hope that we will act
34 promptly on this legislation. Thank you very much.

35
36 COUNCIL PRESIDENT ANDREWS:

37 Okay. Thank you. Councilmember Elrich, then Councilmember Floreen.

38
39 COUNCILMEMBER ELRICH:

40 I just want to add that I hope this is not the last of the Boards and Commissions that we
41 look at, but merely the first of the Boards and Commissions we look at in the kind of

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1 budget that we're facing. My view is that before I leave a Board and Commission standing
2 with pay and with resources, I want to take care of the basic delivery of services, and if we
3 can't afford services, we certainly don't need advice to tell us how to spend money on
4 services that we can't afford, and so my goal is going to be, I think in the long term, to look
5 at these Commissions and Boards as volunteer. I think their advice is welcome. Their
6 advice is needed, but of the things we can pay for and afford to pay for in this county, I
7 want to pay for a lot fewer of the Commissions and I want to make sure our resources go
8 to direct service delivery. So this is the first, not the last, of the Boards that I'm going be
9 looking at.

10
11 COUNCILMEMBER LEVENTHAL:

12 Can I just say, I appreciate Mr. Elrich's comments and I'd look forward to working with him
13 on a review of how we could make additional progress in that area.

14
15 COUNCIL PRESIDENT ANDREWS:

16 Okay, Councilmember Floreen.

17
18 COUNCILMEMBER FLOREEN:

19 Thank you. Well, I share the overall objective, of course, of looking everywhere and under
20 every stone and probably moving stones for cost savings this year. My question, though,
21 had to do with the fiscal objective here. We're looking also at eliminating the funding for
22 the two positions because that's where the bulk of money is here, \$226,000.

23
24 COUNCILMEMBER LEVENTHAL:

25 Why don't we let that discussion happen in the Public Safety Committee? I mean, with the
26 staff of this committee...

27
28 COUNCILMEMBER FLOREEN:

29 I'm just trying to understand the intention of the...

30
31 COUNCILMEMBER LEVENTHAL:

32 If the question is directed to the Bill's sponsor, I'll try to answer it, but I'm not in a position
33 now. I mean, all I know is what the staff has told us.

34
35 COUNCILMEMBER FLOREEN:

36 Yeah, okay.

37
38 COUNCILMEMBER LEVENTHAL:

39 So, the staff has said that the total cost of the Commission is \$321,364. Abolishing the
40 Commission might lead to those savings. The Chairman of the Public Safety Committee
41 and Council President said earlier this morning, he may have different approaches and so



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1 that discussion clearly will come up in his committee. He chairs that committee, and it
2 seems to me that's the most appropriate place to go over exactly how much can be
3 shaved-- or saved, exactly how much shaved or saved, exactly how many staff positions
4 need to be retained. The cost estimate from our staff of this legislation today is \$321,364,
5 and I would just say as Chairman of the Health and Human Services Committee, you
6 could provide a lot of meals to seniors. You could provide a lot of chore services to the
7 frail elderly. You could provide rental assistance to a lot of people in need of housing.
8 We're facing a lot of tough choices here, and \$321,364 is more than nothing.

9
10 COUNCILMEMBER FLOREEN:

11 Absolutely. Just wanted to check. Thanks.
12

13 COUNCIL PRESIDENT ANDREWS:

14 All right. A brief comment. First, I commend Councilmember Leventhal for looking for
15 savings. I want everybody to do that, and I am very sympathetic to what his goal is in the
16 sense of not having money there that is not necessary to support the Commission
17 because I think the Commissions could operate on very, very little and continue to do
18 what it does. I agree that its functions have changed dramatically. It's workload has
19 changed dramatically, and I think we should find savings in the Commission and maybe
20 we can find the entire savings that is currently devoted to it. A separate issue is whether to
21 keep the Commission and that doesn't necessarily follow that one has to eliminate the
22 Commission to find the savings, and so I think it's important to recognize there is that
23 alternative while still achieving a goal of saving money, significant money, perhaps, if
24 there are savings from the staff as well, although, I know that the two staff who are
25 currently assigned to Fire and Rescue Commission that are full-time employees of Fire
26 and Rescue Service have many other responsibilities that at this point occupy most of
27 their time because the workload of the Commission has been decreased so much, but we
28 will get into those details in the Committee. I do appreciate the initiatives. I think we need
29 to look hard at all the Commissions that we have, see if we need to keep them and
30 whether to fund them. This one, I think the Commission still serves a usual role but I think
31 it does not need the money that supports it at this point or that pays the stipends. With
32 that, no opposition to the introduction of the bill, that will be scheduled for public hearing
33 February 3rd at 7:30, and we will move to miscellaneous business, action resolution to
34 extend the expiration date until December 31, 2009 of Expedited Bill 14-07, Forest
35 Conservation Enforcement, and of Bill 13-07, Moderately Priced Dwelling Units--
36 Amendments. I think we have a comment from Councilmember Floreen on the first
37 extension--Forest Conservation.
38

39 COUNCILMEMBER KNAPP:

40 I'll move the resolution.
41

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1 COUNCIL PRESIDENT ANDREWS:

2 Very good. Councilmember Knapp moves the resolution, second by Councilmember
3 Elrich. Comments, Councilmember Floreen.

4
5 COUNCILMEMBER FLOREEN:

6 Thank you, Council President. I just want to comment on the first conservation issue. We
7 really are trying to get this done, but we are expecting momentarily advice from the
8 County Executive staff over the timing of their proposal. They are looking at first
9 conservation law with some different approaches, and that has frankly been the challenge
10 with this piece of legislation over time, and again, it's a great thing. Every so often,
11 someone comes up with the better idea and that's what we anticipate working on in the
12 coming months. I just want to take this opportunity to remind the County Executive staff
13 and perhaps I could ask Mr. Faden to check in with them. They were going to get us a
14 schedule around now how they thought that they could get back to us and under what
15 circumstances. So, if you would be so kind as to let us know when we can anticipate
16 hearing the County Executive's further recommendations on this, that would be helpful.
17 Thank you.

18
19 COUNCIL PRESIDENT ANDREWS:

20 I saw nodding from somewhere out there, so that will happen, I think. Okay. I don't see
21 any other-- Oh, I do see one comment. Councilmember Elrich?

22
23 COUNCILMEMBER ELRICH:

24 Yeah, I appreciate the recommendation to extend the deadline on this as the sponsor of
25 the Bill. A lot of things have changed, and the other thing that we didn't mention was that
26 the state was in the process of making recommendations on Forest Conservation and as
27 we got close to looking at what we thought the numbers would be, we wanted to be sure
28 that we're in line, certainly not recommending less than what the state was going to be
29 proposing and the changes that they have been considering. So, I appreciate the
30 willingness to extend and look forward to bringing this to a speedy conclusion in the next
31 few months.

32
33 COUNCIL PRESIDENT ANDREWS:

34 Thank you. Okay, we will now vote on the resolution to extend the expiration date. All
35 those on favor, please raise your hand. That's Councilmember Elrich, Praisner,
36 Trachtenberg, Floreen, myself, Council Vice President Berliner, Councilmember Knapp--
37 it's unanimous--Councilmember Ervin, and Councilmember Leventhal. Although, it looks
38 like we have a long way to go, we don't, so-- We have three public hearings, but we are
39 postponing the first public hearing, which is Bill 35-08, Motor Vehicles and Traffic. We're
40 extending the public hearing in effect and we will take testimony on that on January 13th
41 at 1:30, so that will be postponed till then in terms of the speakers. The next is a public

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1 hearing in action. We do have action on the next two, but we have no speakers, and so it
2 will not take long, I don't think, and I'll read the-- I need to read the official public hearings.
3 Here we go. This is a public hearing on a special appropriation of the Revenue Authorities
4 FY09 Capital Improvements Budget, an amendment to the FY09 through 14 Capital
5 Improvements Program on behalf of Montgomery College \$14,500,000 for the Takoma
6 Park/Silver Spring West Campus Garage. The action is scheduled immediately following
7 this hearing. There are no speakers for this hearing. The hearing closed. There is a
8 recommendation from the Education Committee and Chairman Ervin.

9
10 COUNCILMEMBER ERVIN:

11 No, it's pretty self-explanatory, but I see that Councilmember Knapp has his light on.

12
13 COUNCIL PRESIDENT ANDREWS:

14 All right, Councilmember Knapp.

15
16 COUNCILMEMBER KNAPP:

17 Thank you Mr. President. I had asked a series of questions at the Educational Committee
18 worksession, and I just want to thank the college, and thank the Revenue Authority for
19 following up with me, and I've clarified all the issues that were raised, and I appreciate all
20 of the efforts.

21
22 COUNCIL PRESIDENT ANDREWS:

23 I thank them as well. All right, we then will take action. This requires six votes since it's
24 supplemental special appropriation and all those in favor of the special appropriation,
25 please raise your hands. That is unanimous, 9-0. All right, the next public hearing is on a
26 special appropriation to the County Government's FY09 Operating Budget, Department of
27 Health and Human Services--\$310,000 for the Child Welfare Initiative Grant. Action is
28 scheduled is immediately following this hearing. There are no speakers for this hearing.
29 Would Chair Leventhal would like to speak to this? I understand--

30
31 COUNCILMEMBER LEVENTHAL:

32 I personally urge approval. We did not think it was controversial. We did not bring it before
33 the Committee. I would encourage my colleagues to vote yes. It does not have a long tale.
34 I know our Council President is appropriately concerned about grants that obligate the
35 county to long-term agreements. In this case, I don't have that concern.

36
37 COUNCIL PRESIDENT ANDREWS:

38 Very good, so motion is from Chair Leventhal, seconded by Councilmember Floreen. All
39 those in favor of the appropriation, please raise your hand. Councilmember Elrich, are you
40 voting for this?



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1 He is, okay. All right, it is unanimous on that. All right, that is approved. Our final item is a
2 discussion on community outreach for the Property Use/Smart Growth Initiative. We
3 introduced earlier today a package of Bills at the request of the County Executive to fund
4 the initiative that we will take through public hearing and through the Committee process
5 and so on, and we're very interested in soliciting public input. Councilmember Leventhal,
6 Councilmember Knapp have emphasized, and I will as well, how important it is that we
7 hear from the public about this very ambitious and complex proposal that we will be taking
8 up in the next couple of months. There is a public hearing scheduled on January 22nd
9 here at the Council, and prior to that public hearing, we want to make sure the public is
10 aware of that hearing and that it knows that we want to hear from them, and so, we have
11 with us today, Dianne Schwartz-Jones from the County Executive's office who has been
12 heading this effort up and can tell us a little bit about what is available to the public from
13 their point of view about this proposal, and then we can discuss here about what else we
14 might do to solicit public input. I'll first turn to Dianne Schwartz-Jones.

15
16 DIANNE SCHWARTZ-JONES:

17 Thank you, Mr. President, and thank you, Councilmembers, and I want to thank you for
18 taking the appropriation request that we've made and introducing them and taking them
19 under consideration. I think it will be helpful to understand how much outreach has already
20 occurred. In anticipation of this meeting, we went back through our records and we've met
21 with the various community groups and municipalities and interest groups. We've had at
22 least 40 meetings thus far to date. We've met with the Kentlands community group a
23 couple of times. We met with the Lakelands community group. We've met with the North
24 Potomac Civic Association. We've had numerous meetings with the Shady Grove Sector
25 Plans Citizens Advisory group, The Greater Shady Grove Alliance. We've met with
26 Montgomery Village and the East Village-- Montgomery Village Foundation and the East
27 Village. We've had two large community meetings. We have ongoing regular breakfast
28 meetings with representatives of both Montgomery Village Foundation and the East
29 Village. We've met several times in the offices of the County Executive with these groups.
30 We've had two on-sites. Mr. Dise--David Dise, the Director of the Department of General
31 Services--has had two on-site walking tours with the community out at the Webb Tract.
32 We've met with the Derwood community one time in the County Executive's Office. We
33 had attended one public meeting and did a presentation there, and we've had two
34 community meetings with this community as well. We have ongoing meetings with them.
35 Additionally, I'd like to note that we have been working with the Derwood community,
36 which is the community that is most impacted by the Gude landfill proposal. We have told
37 them that with respect to the studies--and you have a PDF pending before you now to
38 fund studies as they would relate to the Gude landfill and future use of the Gude landfill--
39 we have told them that we will prepare a draft scope of work for the environmental studies
40 and asked them to have input into the scope of work before we finalize it and actually
41 bring someone under contract to do the studies. We've met with the Upcounty Citizens



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1 Advisory Committee. We've met with the Smart Growth Coalition to brief them on what our
2 proposal is, and also, as you know, the County Executive had a town hall meeting in
3 Gaithersburg, where this was a large topic of conversation at that time. We also have met
4 with the municipalities. We've met with the Gaithersburg Mayor and Council a couple of
5 times, and we have ongoing periodic meetings with the mayor, Mayor Katz, and with the
6 staff, and also some ongoing telephone communications as well about this initiative.
7 We've met with the Rockville city manager and some of his staff, his planning staff. We've
8 met with the mayor of Washington Grove. We've met with the Poolesville commissioners
9 at an earlier iteration of this proposal. We have a web site that's been up since April. It
10 does need improvement and it needs updating. We acknowledge that. Mr. Dise and his
11 staff have been working on an updated web site which we're hoping would be live come
12 the end of this week. We have also arranged in the realm of the public outreach in order to
13 inform affected communities, in particular the East Village community and I think it's
14 Hunters Woods across the street, in order to help them understand what they might
15 expect from having Montgomery County as a neighbor with respect to the PSTA. We had
16 a PSTA tour set up for them. We brought community leadership out there. We took them
17 through the PSTA. We also had a bus, and we had pegged out the representative
18 distances of where they would expect to be in relationship to proposed facilities in their
19 community or next to their community, vis-a-vis the current site so they could see what
20 they may see or hear. They've asked for another tour for other community
21 representatives, and we've said, "Yes, we will do that." Right now, the Symtron is down,
22 so we want to wait until it's back up, and we'd like to do that toward a time when there's
23 actually a regularly scheduled class going on. So, we're expecting that will probably be
24 certainly after the New Year and probably a little bit later towards early-spring timeframe.
25 We also arranged a tour of the MCPS Food Distribution Warehouse so that members of
26 the community could see what goes on there, could understand the operations, and I
27 might add that that is a fastidiously clean facility. It is a most impressive operation, but we
28 spent quite a bit of time there. They were given the opportunity to speak with the folks that
29 are actually running the warehouse, get an understanding of how many trips in and out
30 each day and what actually goes on there and I think it was a very helpful endeavor. We
31 have a-- I call it the talking head spot. On County Cable if you ever can't sleep at night and
32 want to listen to me drone on about this topic, you can tune into County Cable and get
33 information about what the thinking is and what the proposals are. So that is available
34 through County Cable. There's also a direct link to it, I believe, through the web site that is
35 currently up. We have met with the business community. We've met with the Montgomery
36 County Chamber of Commerce through Economic Development Committee. We've met
37 with the Bethesda Chamber of Commerce and their Economic Development Committee.
38 The Germantown Chamber, I've not yet met with and the Gaithersburg, but I've had
39 conversations with them, and they've received, I believe, a copy of our PowerPoint
40 presentation. I've reached out to a number of law firms as well. We've had meetings with
41 various law firms on this, and, oh, I failed to mention that we had two briefings here just, I

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1 guess, about a week or so ago that were noticed to the business communities so they
2 could come and also see the PowerPoint presentation and learn a little bit more about
3 what we're proposing in what we're now calling our Smart Growth Initiative. The County
4 Executive, when I mentioned the Gaithersburg town hall meeting, at that time, he
5 indicated that he wanted to set up an advisory group. We have been at several meetings
6 to pull together what we think this should be. It will be a Smart Growth Initiative
7 Implementation Advisory Group. The purpose of the group is to consider and advise to
8 County Executive and his staff on matters relating to or arising out of the implementation
9 of the Smart Growth Initiative. This group will also probably help guide community
10 interaction, although, I want to come back to that. They will consider approaches to sites.
11 We will provide them with the studies and the data that we have and, you know, as they
12 recommend that we look at other things, we will do that as well. The composition will be
13 affected residential and business communities, environmental and/or Smart Growth
14 interest groups, transit-oriented development representation, and other interest groups
15 that have a unique interest in what we're undertaking here. We will be submitting--we're
16 hoping to do it by the end of this week--a proposed composition and mission statement to
17 the County Executive for his consideration and approval. I said I wanted to come back to
18 the community groups and, particularly, vis-a-vis the Smart Growth's Initiative
19 Implementation Advisory Group. We think that it is very, very important that we continue to
20 meet with the individual communities. They have interests that are unique to their site and
21 what is proposed for their sites, and I can speak to Mr. Dise. He and I are both very, very
22 committed to continue engaging in dialogue, taking the concerns, trying to address the
23 concerns as we plan for a site. We may not be able to make everybody totally happy, but
24 we can certainly try to be a very good neighbor and do what we're undertaking in the right
25 way. So, we will continue to engage with the individual communities as well. The last thing
26 that I wanted to mention is that with respect to the various acquisitions that are
27 contemplated, in accordance with state law, the terms of any proposed acquisition once
28 we've reached agreement on the terms will be advertised for an opportunity for comment.
29 That, I believe, is twice a week and successively in area newspapers, and that will be prior
30 to final execution of our agreements, and, of course, you have your hearing coming up, so
31 there's a lot of public outreach and public process.

32
33 COUNCIL PRESIDENT ANDREWS:

34 I'm going to get you my colleagues in just a minute. I wanted you to take just maybe three
35 minutes though for people listening to describe in a nutshell what it is, and I know you can
36 do it two or three minutes because I've talk to you about it, but just so people who are
37 watching for the first time understand what the proposal is...

38
39 DIANNE SCHWARTZ-JONES:

40 For our viewing audience.
41

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1 COUNCIL PRESIDENT ANDREWS:

2 Yes.

3
4 DIANNE SCHWARTZ-JONES:

5 The Smart Growth Initiative which had formally been called a Property Use Initiative is
6 actually-- We are looking at the current location of various county assets and how we can
7 place these assets in order to accomplish some broader, more far-reaching public policy
8 objectives. We want to implement the county service park--excuse me, the Shady Grove
9 sector plan amendment which requires us to relocate the county service park.

10 Implementation of the Shady Grove sector plan amendment means that we will end up
11 with a Smart Growth and a transit-oriented development project that will take a previously
12 industrial site and put it into a mixed-use project. There'll be housing. There will be retail
13 right up next to, snuggled up against the Shady Grove sector plan. We are looking at
14 leveraging our assets in order to acquire new facilities or certain quality of facilities in
15 order to serve some of our needs. Our police have been in, what I would call dire need of
16 a new home for quite a long period of time. We've identified the GE site as a new public
17 safety campus which will house the police headquarters.

18
19 COUNCIL PRESIDENT ANDREWS:

20 That's the old National Geographic site off Darnestown Road.

21
22 DIANNE SCHWARTZ-JONES:

23 That is correct, and because of the collaboration that goes on with our public safety
24 personnel, we want to move our Fire and Rescue Services over with the police into that
25 building as well as our Homeland Security and some offices. Other offices of the county
26 will be located in that building. We are overdue on expanding our Liquor Control
27 warehouse which is over at the County service park. We've identified the Finmarc building
28 for that, to take that use. We are looking, as a broad policy objective, to reduce our
29 dependence on leased properties. We have a \$22 million rent burden. We know that by
30 doing a lot of what we're proposing to do, we can reduce that significantly by several
31 million dollars each year, and-- Did I miss anything?

32
33 COUNCIL PRESIDENT ANDREWS:

34 PSTA. PSTA.

35
36 DIANNE SCHWARTZ-JONES:

37 Pardon? Oh, the PSTA.

38
39 COUNCIL PRESIDENT ANDREWS:

40 Which is Public Service Training Academy, for those listening in.

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1 DIANNE SCHWARTZ-JONES:

2 The Public Safety Training...

4 COUNCIL PRESIDENT ANDREWS:

5 Public Safety Training.

7 DIANNE SCHWARTZ-JONES:

8 The Public Safety Trainings Academy is located in the heart of our Shady Grove Life
9 Sciences Center. At the time that it was located there over 40 years ago, it was just
10 farmland. We are looking to relocate that, modernize it, and relocate it over at the Webb
11 Tract which is off of Snouffer School Road, and we would be using the Public Safety
12 Training Academy site to provide some housing and uses that would help to support the
13 expansion of our Life Sciences, the advancement of our Life Sciences as well as our
14 higher education facilities near there. I would add that with respect to that particular area
15 and the County as a whole, we have created a Bio-Sciences Taskforce which is a Blue
16 Ribbon Taskforce headed by David Mott, who had been the head of MedImmune, and this
17 group is working to help us formulate a strategic plan for Bio-Sciences as an industry, as
18 part of the county's economic development plan overall which will lead us into the next
19 several decades.

21 COUNCIL PRESIDENT ANDREWS:

22 Okay, and another part of the proposal is to move the Rockville district station, correct, to
23 the GE site.

25 DIANNE SCHWARTZ-JONES:

26 Yes, the Rockville district police station will go into the first floor of the GE tech building or
27 the old National Geographic building. We have plans, with respect to that site. We plan on
28 keeping the area in front of the lake open and available for public use and enjoyment. We
29 plan to put a public safety memorial in the front of that. We have been working with the
30 community. We've been working with the city, and we will continue to do that to make that
31 site something that will continue to be as lovely as it is and in better condition than it
32 currently is and something we can all be proud of, and for more information, this is
33 something we do have a lot of detail on our web site. If you go to the Montgomery County
34 web site, www.montgomerycountymd.gov, if you drop down and scroll down through, you
35 should be able to find something that either says Smart Growth Initiative or it might also
36 say Property Use Initiative. You can click on that icon and it will give you all kinds of
37 detailed information, or anybody can feel free to contact me at 240-777-2561, or David
38 Dize at...

DAVID DISE:

39 240-777-9910. I'll add that--oh, thank you--on the new web site, the contacts page will
40 have both our portraits, which is a disservice to electorate and citizens of Montgomery
41 County in my case, and our contact information. I also wanted to add in response to

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1 requests by Councilmembers that, regarding the revised schedule of these projects and
2 the parallel nature of some of these, that that schedule will also be published on the web
3 site.

4
5 COUNCIL PRESIDENT ANDREWS:

6 Good, and, again, the public hearing is scheduled, and I will I get to my colleagues very
7 shortly, January 22nd at 7:30 P.M., and a joint committee session of the Public Safety
8 Committee and--is it T&E or PHED?--T&E, Transportation and Environment and
9 Infrastructure Committee and Public Safety Committee will be scheduled for January 29th,
10 and we hope people will tune in or attend the public hearing, and they can contact the
11 Council here to sign up, and we will get that number up on the screen or we'll say it in just
12 a little bit, but first I'm going to turn to my colleagues, Councilmember Leventhal and
13 Councilmember Knapp, who have been strong advocates for really reaching out to the
14 public in a very comprehensive way on this issue.

15
16 COUNCILMEMBER LEVENTHAL:

17 Great. Well, thank you very much, Mr. President. This is a good discussion and it had to
18 take place in public, so I'm glad we scheduled this way. We had some proprietary
19 information about land values and the issues that we're dealt with in closed session, and
20 we all wanted to know how will the public get input, and because it was a close meeting
21 we couldn't have that discussion. So, it's great that we're doing this now in a short
22 timeframe. I know we need to get out of here. What would be most useful to me as one of
23 the decision makers here, and I appreciate, Diane, that the Executive Branch has
24 engaged in a lot of meetings with the community. Councilmembers are still hearing from
25 the community, and I know-- I've been around a while. I know that you don't get 100%
26 agreement on anything. However, what would be most useful to me, whether it is in the
27 public hearing on January 22nd or in the Committee meeting beginning January 29th--
28 and that won't wrap it up; there will be more than one Committee discussion required--
29 would really be the opportunity for Councilmembers to hear members of the public, and
30 then, at the very same time at that point, ask questions of the two of you. Because what is
31 missing, I feel like the conversation is kind of disconnected. That is, the Executive Branch
32 tells us, "We've got this plan. It all fits together. It doesn't cost anything in the long run, it
33 all comes out in the wash," and then we have community members asking very specific
34 targeted questions about traffic on the Webb Tract, consistency of the GE Finmarc with
35 the City of Gaithersburg master plan for that property, and then all of the many questions
36 that I understand. I heard what you said. You're studying the safety and utility of the Gude
37 landfill site. There may be others, but those are the three major baskets that I'm getting
38 messages about, and so you have your community meeting. These questions are asked.
39 You try to answer them, but we're not there, not that we couldn't attend, but, you know,
40 realistically, we can't attend every community meeting. We're already out in the
41 community a lot, and so when we're sitting here in session and we're getting our minds

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1 around these issues, it would be great if we could structure that point-counterpoint, and so
2 it may be that we already have the framework for that, and that's just simply the public
3 hearing on the 22nd. Constituents who care will come. They will raise those questions,
4 and Councilmembers who want to pursue those questions, you'll be there and we'll be
5 able to ask those questions. Maybe that will suffice. If that doesn't suffice and if there are
6 lingering issues after the 22nd, I hope that we can invite and, you know, if its T&E we'll
7 ask the Committee Chair Floreen and Public Safety Council President Chairs to facilitate
8 that kind of dialogue. Now, what that's going to require, obviously, on the part of these
9 affected communities is for them, to some extent, to designate spokespeople, and, you
10 know, there's a lot of people in the East Village. There's a lot of people in the Kentlands
11 and the Lakelands and throughout the City of Gaithersburg, the Mayor and Council of
12 Gaithersburg. There's a lot of people who express concerns, and there isn't necessarily,
13 you know, one framework by which the president of a single civic association or the mayor
14 of a single city speaks on behalf of all the questions, but, what would be important for us
15 to do now through our staff, Neil Greenberger who's here, is to do as much outreach as
16 we can do to really encourage people who have questions either to show up on the 22nd
17 or submit them in writing, and then I know from my perspective, I will do my very best to
18 frame those questions in such a way that we can get them answered on the spot with the
19 members of the community present. So, that's unusual. We don't always do it that way,
20 but, again, I sort of feel like, Dianne, when you tell us the story, it's all great. It all works.
21 Everything's terrific. It's going to be fabulous. It won't cost anything. The taxpayers will
22 come out even, and we don't have the chance to say, "Well, wait a minute now. What
23 about Mr. Johnson's question specifically?" And that's where I'd like to see this move for
24 my benefit because economic times are bad, and a lot of the fundamental assumptions,
25 we're going to have to go over very, very carefully, particularly with respect to the land
26 values, particularly with respect to recouping these very large upfront capital investments.
27 We may be operating on assumptions that were made a year ago before the bottom fell
28 out. So, it's going to take some real scrutiny on this end. I would not take for granted the
29 Council's approval of this big plan. I think there's many serious issues that the Council's
30 going to have to review, you know, the community issues, but also the financial issues.

31
32 DIANNE SCHWARTZ-JONES:

33 I'd like to offer that it might make sense if you've got staff that wants to come over, we can
34 sit down. We can pull together a list of frequently asked questions because we're getting
35 questions too. We've been answering questions as we get a lot of the questions. Some of
36 them we don't have answers for yet that we need to get the studies together, get the
37 answers. That might be helpful for the Council packet as it's moving towards the hearing.



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1 COUNCIL PRESIDENT ANDREWS:

2 Very good suggestions, Councilmember Leventhal. I like the idea, and I think having the
3 dialogue at the meeting will be helpful too so that there's, as much as possible, a
4 response that's at the same time. Councilmember Knapp.

5
6 COUNCILMEMBER KNAPP:

7 Thank you, Mr. President. Again, I appreciate, well, in the vein that Mr. Leventhal just
8 said. I know the outreach you've been doing and all the folks you've been talking to. I've
9 talked to the folks before you've talked to them, talked to them after you talk to them, and
10 so I know that there's been a lot of work that you put into this. To me, there's two issues.
11 There's the land use piece. We got the property use initiative, and we've got all of those
12 things that are there, and then we also have a pretty big fiscal piece, and I think it's going
13 to be important for us to kind of-- Obviously, one doesn't happen without the other, but I
14 think that it's going to be important to make sure we understand people's land use issues,
15 and, you know, we call it "a thing," but it's lots of different things and lots of different
16 communities, and so that creates a challenge because it's not really "a thing." It's a bunch
17 of things that we need to understand fully, and then there's the fiscal issue that all of these
18 things over here may make a lot of sense from a property use perspective, but we're
19 sitting in the middle of difficult economic times, and we're looking at \$1/2 billion to \$3/4
20 billion project at a time when we're looking at bus rapid transit, we're looking at purple
21 lines, we're looking at Corridor Cities Transitway, we're looking at four high schools that
22 we would have loved to renovate in last year CIP that we couldn't, and so if there are new
23 and innovative ways for us to finance projects, I think this is certainly something in that
24 mix, but not exclusive in that mix, and I think we need to make sure that people
25 understand not just what the land use piece will be and the impact on their community, but
26 also the options that they're choosing between, that if we do this, we may very well be
27 foregoing some of these other things because we will be using capacity to fund this
28 project that we can't use another way. So, I think that's another piece that needs to get out
29 there. I appreciate what Mr. Leventhal has suggested as it relates to kind of the dialogue.
30 One of the other things I would propose is--and I don't know kind of graphs and charts and
31 pictures and things that you have--but I think our new third floor hearing room will be up
32 and operational when we have the public hearing in January.

33
34 COUNCIL PRESIDENT ANDREWS:

35 Yes, I believe so.

36
37 COUNCILMEMBER KNAPP:

38 And so one of the things to propose might be to even have an hour, hour and a half thing
39 beforehand where we could use the lobby where people can actually come and see all of
40 the different pieces, both from a financial perspective and from visual perspective, and
41 really get a sense of what are all the pieces. So before they present, they've had a chance

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1 to kind of see that. We can even kind of mingle about with folks and kind of hear the
2 questions people are asking so to kind of, again, make sure people are asking questions
3 on the information that's in front of them, and we can hear it and see if we're getting the
4 right questions answered. I mean, we do that with the road show for transportation, when
5 we deal with the state, things like that, So maybe we can do something along those lines.

6
7 DAVID DISE:

8 Two things. The new Council Chamber will certainly be available by then, and, yes, we
9 are planning graphics and other presentation materials that help convey the message
10 clearly, and we could certainly do that.

11
12 COUNCILMEMBER KNAPP:

13 And see what we get there and there may be some opportunities to take that show on the
14 road a couple of other spots if we need to, but that way people can see the totality of the
15 project, not just kind of their sliver as they see in the neighborhood because that'll be
16 helpful, but I think that's also important, and I would just say for my colleagues' benefit that
17 we need to really understand that fiscal piece. It may make sense to do this this all as a
18 great, big project. It may make more sense to break the pieces up and make sure that
19 we've got the appropriate requirements at each step along the way so that we're raising
20 our hands and we know what we're raising our hands on as opposed to kind of one-- I
21 know your goal would be to kind of have all the six PDFs approved, but January 22nd
22 wouldn't be any too late for you and that'd be wonderful and away you go. I'm not sure if
23 that necessarily makes the most sense given some of the other fiscal issues we're going
24 to address, but I think it's important for us to look at not just the land use but also the
25 budget piece. So, I think that we need to get that out there.

26
27 COUNCIL PRESIDENT ANDREWS:

28 Very good suggestions, and the number for the public to call to sign up to testify is 240-
29 777-7931 for that public hearing on January 22nd here at the Council. That's it. There are
30 no other questions, comments, and we are going to be in recess as a Council until
31 January 13th. Have a good holiday, everybody.

32
33 COUNCILMEMBER KNAPP:

34 Thank you very much.